CHIEF'S PREFACE

On behalf of District Attorney Cynthia J. Zimmer and as Chief of the Bureau of Investigation, I want to thank each and every one of you for your hard work, dedication and character. I cannot adequately express the appreciation I have for the critical work you accomplish on a regular basis. The Kern County District Attorney's Office is dedicated to the protection of our communities and serving the victims of crime in Kern County. Our goal is to create a sense of security for our citizens through the vigorous enforcement of criminal and civil laws in an honest and ethical manner. We accomplish this through a detailed evaluation and investigation of cases entrusted to this office. Our staff is a mixture of sworn peace officers and civilian personnel and have the broadest investigative authority of all local law enforcement agencies in the County. Our investigative functions extend from providing investigative support to the litigators of the District Attorney's Office in hearings and trial, to handling complex and specialized investigations not routinely handled by the detectives in other local law enforcement agencies with the highest level of integrity. Without all of you and your hard work and dedication to the delivery of exceptional investigative and prosecutorial services, the Bureau of Investigation would not have achieved the professional recognition we have throughout the law enforcement community. The Kern County District Attorney's Bureau of Investigation Manual is intended to serve as a valuable reference, critical to our daily activities. It is the responsibility of every employee receiving the manual to review and understand its contents. This Policy Manual will serve employees as a guide to ensure our decisions and actions are consistent with the mission of law enforcement and philosophy of the Kern County District Attorney's Office.

Jared Kadel

Chief Investigator

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MISSION STATEMENT

The stated mission of the Kern County District Attorney’s Office is to fairly and vigorously represent the people of the State of California in the administration of justice in Kern County.

In furtherance of this mission, this Office is committed to investigate and prosecute criminal cases with professionalism, skill and courage and to administer the laws of California and the United States equally and impartially as to all persons.

BUREAU OF INVESTIGATION

The mission of the Bureau of Investigation is to support the prosecutorial efforts of the Kern County District Attorney’s Office and to promote cooperation between the District Attorney’s Office and all local, state and federal law enforcement agencies.

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Chapter 1 - Law Enforcement Role and Authority

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Law Enforcement Authority

100.1 PURPOSE AND SCOPE

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

100.2 PEACE OFFICER POWERS

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

100.2.1 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE KERN COUNTY DISTRICT ATTORNEY'S OFFICE BUREAU OF INVESTIGATION

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

(a) When the investigator has probable cause to believe the person committed a felony.

(b) When the investigator has probable cause to believe the person has committed a misdemeanor in the presence of the investigator and the investigator reasonably believes there is immediate danger to person or property or of escape.

(c) When the investigator has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the investigator such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.

(d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.

(e) In compliance with an arrest warrant.

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

100.2.2 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE KERN COUNTY DISTRICT ATTORNEY'S OFFICE BUREAU OF INVESTIGATION

The arrest authority within the jurisdiction of the Kern County District Attorney's Office Bureau of Investigation 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.

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

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

(e) In compliance with an arrest warrant.

100.2.3 TIME OF MISDEMEANOR ARRESTS

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

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

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

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

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

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

100.2.4 OREGON AUTHORITY

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

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

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

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

Kern County District Attorney's Office Bureau of Investigation investigators have no authority to enforce Oregon traffic or motor vehicle laws.

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

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

100.3 POLICY

It is the policy of the Kern County District Attorney's Office Bureau of Investigation 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.

100.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

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

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

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

100.5 CONSTITUTIONAL REQUIREMENTS

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

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Chief Executive Officer

101.1 PURPOSE AND SCOPE

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

101.1.1 CHIEF INVESTIGATOR REQUIREMENTS

Any chief investigator of the Bureau of Investigation appointed after January 1, 1999, shall, as a condition of continued employment, complete the course of training prescribed by POST and obtain the Basic Certificate by POST within two years of appointment (Penal Code § 832.4).

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Oath of Office

102.1 PURPOSE AND SCOPE

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

102.2 POLICY

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

102.3 OATH OF OFFICE

All department members, when appropriate, shall take and subscribe to the oaths or affirmations applicable to their positions. All sworn members shall be required to affirm the oath of office expressing commitment and intent to respect constitutional rights in discharging the duties of a law enforcement officer (Cal. Const. Art. 20, § 3; Government Code § 3102). The oath shall be as follows:

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

102.4 MAINTENANCE OF RECORDS

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

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Policy Manual

103.1 PURPOSE AND SCOPE

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

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

103.2 POLICY

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

103.2.1 DISCLAIMER

The provisions contained in the Policy Manual are not intended to create an employment contract nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Kern County District Attorney's Office Bureau of Investigation and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the County, its officials or members. Violations of any provision of any policy contained within this manual shall only form the basis for department administrative action, training or discipline. The Kern County District Attorney's Office Bureau of Investigation reserves the right to revise any policy content, in whole or in part.

103.3 AUTHORITY

The Chief Investigator in consultation with the District Attorney shall be considered the ultimate authority for the content and adoption of the provisions of this manual. The Chief Investigator shall ensure compliance with all applicable federal, state and local laws. The Chief Investigator 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.

103.3.1 COMMAND STAFF

The Command Staff of the Bureau of Investigation shall consist of the following:

- Chief Investigator

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- The Lieutenant from each bureau section

The Command Staff shall review all recommendations regarding proposed changes to the policy manual as directed by the Chief Investigator.

103.4 DEFINITIONS

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

Adult - Any person 18 years of age or older.

Bureau - The Kern County District Attorney's Bureau of Investigation

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

CHP- The California Highway Patrol.

CFR - Code of Federal Regulations.

County - The County of Kern County District Attorney.

Civilian - Employees and volunteers who are not sworn peace officers.

Department - Kern County District Attorney's Office.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Department.

Juvenile- Any person under the age of 18 years.

Manual - The Kern County District Attorney's Office Bureau of Investigation Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Kern County District Attorney's Office Bureau of Investigation, including:

- Full- and part-time employees
- Sworn peace officers
- Reserve, auxiliary investigators
- Civilian employees
- Volunteers.

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

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.

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

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

Shall or will - Indicates a mandatory action.

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

Supervisor - A person in a position of authority that may include responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other department 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 worker) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

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

USC - United States Code.

103.5 ISSUING THE POLICY MANUAL

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

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

103.6 PERIODIC REVIEW OF THE POLICY MANUAL

The Chief Investigator will ensure that the Policy Manual is periodically reviewed and updated as necessary.

103.7 REVISIONS TO POLICIES

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

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

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

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Policy Manual

All Bureau members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Lieutenant who will consider the recommendation(s) and forward them to the Chief Investigator as appropriate.

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Law Enforcement Code of Ethics

105.1 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.

105.2 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).

105.3 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.

105.3.1 OBJECTION TO RELIGIOUS AFFIRMATION

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

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Chapter 2 - Organization and Administration

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Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

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

200.2 SECTIONS

The Chief Investigator is responsible for administering and managing the Kern County District Attorney’s Office Bureau of Investigation. There are three sections in the Bureau as follows:

• Administration Division

• Criminal Division

• Financial Crimes Division

See attachment Organizational Chart

200.2.1 ADMINISTRATION DIVISION

The Administration Division commanded by a Lieutenant whose primary responsibility is to provide general management direction and control for the Administration Division. The Administration Division consists of Technical Services, Administrative Services, Special Projects and Professional Standards. The technical services staff provides assistance to Deputy District Attorneys in the production of trial exhibits, promotional materials and audio/visual production.

200.2.2 CRIMINAL DIVISION

The Criminal Division is commanded by a Lieutenant whose primary responsibility is to provide general management, direction and control for that Division. The Criminal Division consists of Investigators, and Investigative Aides. The mission of the Criminal Division is to provide the District Attorney’s Office its law enforcement component and provide the highest quality criminal investigative support to the prosecutors in preparing cases for court.

200.2.3 FINANCIAL CRIMES DIVISION

The Financial Crimes Division is commanded by a Lieutenant whose primary responsibility is to provide general management, direction and control for that Division. The Financial Crimes Division consists of Investigators, Investigative Aides, and Office Services Technicians. The Financial Crimes Division's primary function is to promote program integrity in the area of Public Assistance Programs through education, investigation, prosecution and recovery. The Financial Crime Division is also responsible for the investigation of Workers Compensation, Auto, Environmental, White Collar and Real Estate Fraud.

200.2.4 LEGAL OFFICE SUPPORT STAFF

The Office Support Staff is supervised by a Supervising Legal Secretary who reports directly to the Chief Investigator. The Office Support Staff conduct clerical duties and support investigators in the documentation and filing of official investigative reports.

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200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND

The Chief Investigator exercises command over all personnel in the Bureau. During planned absences the Chief Investigator may designate a Lieutenant to serve as the acting Chief Investigator. All staff will be notified via e-mail as to who is the acting Chief Investigator.

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, any supervisor may temporarily direct any subordinate if an operational necessity exists.

200.3.3 ORDERS

All employees of the Bureau shall strictly and promptly obey and properly execute, all lawful orders emanating from Bureau supervisors. If an employee to whom a lawful order has been given does not clearly understand it, he/she shall ask for such information as may be necessary for a clear understanding. Should an employee receive a lawful order from a supervisor which conflicts with an order previously given him/her by another supervisor, he/she shall make that fact known to the supervisor giving him/her the conflicting order. The employee shall then obey the last order given. Should an employee receive a lawful order which he/she believes to be improper or unjust, he/she shall first obey the order and then shall report the circumstances to the Chief Investigator.

Obedience to an unlawful order shall not be considered a defense for an unlawful action. Therefore, no employee is required to obey an order which is contrary to federal or state statutes or local ordinances. Responsibility for refusal to obey rests with the employee who refused the order.

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Job Descriptions

201.1 PURPOSE AND SCOPE

The Kern County District Attorney’s Bureau of Investigation is comprised of sworn and non-sworn positions. All of the positions are represented by a specific bargaining unit. The bargaining units involved include KLEA, KCSCA, and SEIU. Information regarding rights and/or privileges from membership is available from the respective association.

The description, essential functions, employment standards and salary information for each of these positions can be found on the Kern County Human Resources website (http://www.kerncounty.com/hr).

201.2 SWORN POSITIONS

(a) Chief Investigator

(b) District Attorney Lieutenant

(c) District Attorney Investigator I

(d) District Attorney Investigator II

(e) District Attorney Investigator III

(f) District Attorney Welfare Fraud Investigator

201.3 NON-SWORN POSITIONS

(a) Legal Secretary

(b) Senior Legal Secretary

(c) Supervising Investigative Aide

(d) Investigative Aide

(e) Investigative Technician I

(f) Investigative Technician II

(g) Office Services Technician

(h) Office Services Assistant

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Interim Directive

202.1 PURPOSE AND SCOPE

Interim Directives establish an interdepartmental communication that may be used by the Chief Investigator 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.

202.1.1 INTERIM DIRECTIVE PROTOCOL

Interim Directives will be incorporated into the manual as required. 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.

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, 16-01 signifies the first Interim Directive for the year 2016.

202.2 RESPONSIBILITIES

202.2.1 COMMAND STAFF

The Command Staff, comprised of the Chief Investigator and all three of the Lieutenants, shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by an Interim Directive.

202.2.2 CHIEF INVESTIGATOR

The Chief Investigator shall issue all Interim Directives. Interim Directives will be generated in the form of a Kern County District Attorney Office Memorandum.

Electronic versions of Interim Directives will be stored along with the electronic version of this Bureau of Investigation Policy Manual on the Kern County District Attorney intranet. The Interim Directives will be temporarily stored in this fashion until such time as they are incorporated into the Bureau of Investigation Policy Manual.

202.2.3 ADMINISTRATIVE LIEUTENANT

The Administrative Lieutenant shall be responsible for publishing Interim Directives to all employees and for maintaining the appropriate records of generation, issuance and acknowledgement of Interim Directives.

202.3 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

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Interim Directive. Signed acknowledgement forms and/or email receipts showing an employee's acknowledgement will be maintained by the Administrative Lieutenant.

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Emergency Management Plan

203.1 PURPOSE AND SCOPE

The County has prepared an Emergency Management 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).

203.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Management Plan can be activated on the order of the official designated by local ordinance.

203.2.1 RECALL OF PERSONNEL

In the event that the Emergency Management Plan is activated, all employees of the Kern County District Attorney's Office Bureau of Investigation are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief Investigator or the authorized designee.

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

203.3 LOCATION OF THE PLAN

The Emergency Management Plan is available in the office of the Chief Investigator and each Lieutenant. All supervisors should familiarize themselves with the Emergency Management Plan. The Administrative Lieutenant should ensure that Bureau personnel are familiar with the roles they will play when the plan is implemented.

203.4 UPDATING OF MANUALS

The Chief Investigator or designee shall review the Emergency Management Plan Manual at least once every two years to ensure that the manual conforms to any revisions made by the National Incident Management System (NIMS) and the Standardized Emergency Management System (SEMS) and should appropriately address any needed revisions.

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Training

204.1 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.

204.2 PHILOSOPHY

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

204.3 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.

204.4 TRAINING NEEDS ASSESSMENT

The Administrative Lieutenant will conduct an annual training-needs assessment of the Bureau of Investigation. The needs assessment will be reviewed by Command Staff. Upon approval by the Command Staff, the needs assessment will form the basis for the training plan for the fiscal year.

204.5 TRAINING COMMITTEE

The Administrative Lieutenant shall establish a Training Committee, which will serve to assist with identifying training needs for the Bureau of Investigation.

The Training Committee shall be comprised of at least three members, with the senior ranking member of the committee acting as the chairperson. Members should be selected based on their abilities at post-incident evaluation and at assessing related training needs. The Administrative Lieutenant may remove or replace members of the committee at his/her discretion.

The Training Committee should 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. Specific incidents the Training Committee should review include, but are not limited to:

(a) Any incident involving the death or serious injury of an employee.

(b) Incidents involving a high risk of death, serious injury or civil liability.

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(c) Incidents identified by a supervisor as appropriate to review to identify possible training needs.

The Training Committee should convene on a regular basis as determined by the Administrative Lieutenant to review the identified incidents. The committee shall determine by consensus whether a training need exists and then submit written recommendations of its findings to the Administrative Lieutenant. The recommendation should not identify specific facts of any incidents, such as identities of employees involved or the date, time and location of the incident, but should focus on the type of training being recommended.

The Administrative Lieutenant will consider the recommendations of the committee and determine what training should be addressed, taking into consideration the mission of the Bureau of Investigation and available resources.

204.6 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 Administrative Lieutenant to attend the required training on an alternate date.

204.7 TRAINING MATRIX

Refer to attached training matrix for a list of mandatory and non-mandatory courses based upon assignment.

Training Matrix

204.8 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.

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204.9 ADMINISTRATIVE LIEUTENANT

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

204.9.1 TRAINING RESTRICTION

The Administrative Lieutenant 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)).

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Electronic Mail

205.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the County's electronic mail (email) system by employees of the 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 County Policy and current law (e.g., California Public Records Act).

205.2 EMAIL RIGHT OF PRIVACY

All email messages, including any attachments, that are transmitted over County networks are considered County records and therefore are County property. The County 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 County system.

The email system is not a confidential system since all communications transmitted on, to or from the system are the property of the County. 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 County's 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 Bureau of Investigation.

205.3 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.

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.

205.4 MANAGEMENT OF EMAIL

Email that the employee desires to save or that becomes part of an official record should be printed and/or stored in another database. Users of email are solely responsible for the management of their mailboxes.

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Administrative Communications

206.1 PURPOSE AND SCOPE

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

206.2 MEMORANDUMS

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

206.3 CORRESPONDENCE

In order to ensure that the letterhead and name of the Bureau of Investigation or the District Attorney are not misused, all external correspondence shall be on District Attorney letterhead. All District Attorney letterhead shall bear the signature element of the Chief Investigator. Personnel should use District Attorney letterhead only for official business and with approval of their supervisor.

206.4 SURVEYS

All surveys made in the name of the Bureau of Investigation shall be authorized by the Chief Investigator.

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Staffing Levels

207.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that proper supervision is available. The 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.

207.2 MINIMUM STAFFING LEVELS

Minimum staffing levels should result in the scheduling of at least two regular supervisors on duty whenever possible.

207.2.1 SUPERVISION DEPLOYMENTS

In order to accommodate training and other unforeseen circumstances, an Investigator III may be used as a supervisor in place of a Lieutenant.

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Retiree Concealed Firearms

208.1 PURPOSE AND SCOPE

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

208.2 POLICY

It is the policy of the Bureau of Investigation to provide identification cards to qualified former or retired investigators as provided in this policy.

208.3 LEOSA

The Chief Investigator 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 County of Kern.

(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.

208.3.1 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 Bureau of Investigation 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 Bureau to meet the active duty standards for qualification to carry a firearm.

208.3.2 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.

208.4 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).

208.4.1 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.”

208.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

The Bureau shall provide an identification card with a CCW Approved endorsement to honorably retired peace officers from any jurisdiction that this bureau now serves under the following conditions (Penal Code § 25905):

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(a) The retiree's previous agency is no longer providing law enforcement services or the relevant government body is dissolved.

(b) This bureau is in possession of the retiree's complete personnel record or can verify the retiree's honorably retired status.

(c) The retiree is in compliance with all of the requirements of this bureau for the issuance of a CCW Approved endorsement.

208.5 FORMER INVESTIGATOR RESPONSIBILITIES

A former investigator with a card issued under this policy 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.

208.5.1 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 District Attorney's Office 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.

208.5.2 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.

208.6 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 Bureau of Investigation. In the event that an identification card is denied, suspended or revoked, the former investigator may request a review by the Chief Investigator. The decision of the Chief Investigator is final.

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208.6.1 ADMINISTRATIVE LIEUTENANT RESPONSIBILITY
Employees who have reason to suspect a retiree's conduct has compromised public safety should notify the Administrative Lieutenant as soon as practical. The Administrative Lieutenant should take the following steps in these instances:

(a) Take appropriate steps to promptly look into the matter.

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

1. The retiree's CCW endorsement is immediately and temporarily suspended.

2. The retiree will have 15 days to request a hearing to determine whether the temporary suspension should become permanent.

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

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

(d) In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Administrative Lieutenant should attempt to make the above notice of temporary suspension through another peace officer. For example, if a retiree was arrested or detained by a distant agency, the Administrative Lieutenant may request that a peace officer of that agency act as the bureau's agent to deliver the written notification.

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

(f) The Administrative Lieutenant should document in a memo the investigation, the actions taken, and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief Investigator.

208.7 FIREARM QUALIFICATIONS
The Rangemaster 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 Rangemaster will maintain a record of the qualifications and weapons used.

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

(a) 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, postage prepaid, return receipt requested to the retiree’s last known address (Penal Code § 26315).

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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.

(b) 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 Bureau, 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.”

(c) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the Administrative Lieutenant as soon as practicable. The Administrative Lieutenant 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.

(a) 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).

(b) The Administrative Lieutenant should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief Investigator.

(c) 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.

(d) In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Administrative Lieutenant 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 Administrative Lieutenant may request that a law enforcement officer from that agency act as the agent of the Bureau to deliver the written notification.

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Chapter 3 - General Operations

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Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this bureau is expected to use these guidelines to make such decisions in a professional, impartial, and reasonable manner (Government Code § 7286).

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.

Retaliation prohibitions for reporting suspected violations are addressed in the Anti-Retaliation Policy.

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 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)).

300.2.2 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 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.

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

300.3.1 USE OF FORCE TO EFFECT AN ARREST

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

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an investigator has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit (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.

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

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

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

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

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

(s) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Investigators may only apply those pain compliance techniques for which they have successfully completed 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.

300.3.4 ALTERNATIVE TACTICS - DE-ESCALATION

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, investigators should 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 should 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.

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300.3.5 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).

300.3.6 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 the individual is safely secured, investigators should promptly check and continuously monitor the individual's condition for signs of medical distress (Government Code § 7286.5).

300.4 DEADLY FORCE APPLICATIONS

Where feasible, the investigator shall, prior to the use of deadly force, make reasonable efforts to identify themself 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 themself or others from what the investigator 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 themself, 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).

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Additionally, an investigator shall not use deadly force against a person whose actions are a threat solely to property unless the person poses an imminent danger of death or serious physical injury to the investigator or others in close proximity.

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 involve considerations and risks in addition to the justification for the use of deadly force. 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.

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. To collect data for purposes of training, resource allocation, analysis, and related purposes, the Bureau may require the completion of additional report forms, as specified in bureau policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

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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.

300.5.3 REPORT RESTRICTIONS

Investigators shall not use the term "excited delirium" to describe an individual in an incident report. Investigators may describe the characteristics of an individual's conduct, but shall not generally describe the individual's demeanor, conduct, or physical and mental condition at issue as "excited delirium" (Health and Safety Code § 24402).

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

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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:

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.

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(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 LIEUTENANT RESPONSIBILITY

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

300.8 TRAINING

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

300.8.1 TRAINING REQUIREMENTS

Required annual training shall include:

(a) Legal updates.

(b) De-escalation tactics, including alternatives to force.

(c) The duty to intercede.

(d) The duty to request and/or render medical aid.

(e) Warning shots (see the Firearms Policy).

(f) All other subjects covered in this policy (e.g., use of deadly force, chokeholds and carotid holds, discharge of a firearm at or from a moving vehicle, verbal warnings).

(g) 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.

300.8.2 STATE-SPECIFIC TRAINING REQUIREMENTS

Required state-specific training shall include guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities (Government Code § 7286(b)).

300.9 USE OF FORCE ANALYSIS

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

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(a) The identification of any trends in the use of force by members.

(b) Training needs recommendations.

(c) Equipment needs recommendations.

(d) Policy revision recommendations.

300.10 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)).

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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 Kern County District Attorney's Office Bureau of Investigation 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 Kern County District Attorney's Office Bureau of Investigation-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 SPIT HOODS

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

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

Investigators utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and so that the restrained person can breathe normally. Investigators should

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provide assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Investigators should avoid comingling those wearing spit hoods with other detainees.

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

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

301.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

301.7 APPLICATION OF LEG RESTRAINT DEVICES

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

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

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

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

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

301.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

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

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

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

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

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

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

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

301.8 REQUIRED DOCUMENTATION

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

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

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

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

(b) Supervisor notification and approval of restraint use.

(c) The types of restraint used.

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

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

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

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

301.9 TRAINING

Subject to available resources, the Administrative Lieutenant 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.

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

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

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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 Kern County District Attorney's Office Bureau of Investigation 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 the Bureau only if the device has been issued by the Bureau or approved by the Chief Investigator.

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 LIEUTENANT RESPONSIBILITIES

The Lieutenant 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 RANGEMASTER RESPONSIBILITIES

The Rangemaster 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.

Every control device will be periodically inspected by the Rangemaster 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.

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

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disposition. Damage to County property reports shall also be prepared and forwarded to the Administrative Lieutenant 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, personnel shall carry the baton in its authorized holder 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 investigators or the public.

302.6.1 OC SPRAY

Personnel carrying OC spray shall carry the device on their belt and 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 tear gas or 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 Administrative Lieutenant 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.

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Officer-Involved Shootings and Deaths

303.1 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 Chief Investigator may decide that the investigation will follow the process provided in this policy.

303.2 POLICY

The policy of the Kern County District Attorney's Office Bureau of Investigation is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner.

303.3 TYPES OF INVESTIGATIONS

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

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

303.4 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths.

Jurisdiction is determined by the location of the shooting or death. The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

303.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect’s crime occurred. For example, the Bakersfield Police Department would control the investigation if the suspect’s crime occurred in Bakersfield.

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime. The investigation may be conducted by the agency in control of the criminal investigation of the involved officer, at the discretion of the Chief Investigator and with concurrence from the other agency.

303.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved investigator’s conduct during the incident will be determined by the employing agency’s protocol. When an investigator from this bureau is

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involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of this bureau to investigate a shooting or death involving an outside agency's officer shall be referred to the Chief Investigator or the authorized designee for approval.

303.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION
Regardless of where the incident occurs, the administrative and civil investigation of each involved investigator will be handled by the Bureau of Investigation.

303.5 INVESTIGATION PROCESS

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

303.5.1 UNINVOLVED INVESTIGATOR RESPONSIBILITIES
Upon arrival at the scene of an officer-involved shooting, the first uninvolved Kern County District Attorney Bureau of Investigation Investigator will be the investigator-in-charge and will assume the responsibilities of a supervisor until properly relieved. This investigator should, as appropriate:

(a) Secure the scene and identify and eliminate hazards for all those involved.

(b) Take reasonable steps to obtain emergency medical attention for injured individuals.

(c) Request additional resources from the Bureau or other agencies.

(d) Coordinate a perimeter or pursuit of suspects.

(e) Check for injured persons and evacuate as needed.

(f) Brief the supervisor upon arrival.

303.5.2 SUPERVISOR RESPONSIBILITIES
Upon learning of an officer-involved shooting or death, the first uninvolved supervisor should ensure completion of the duties as outlined above, plus:

(a) Attempt to obtain a brief overview of the situation from any uninvolved investigators.

    1. In the event that there are no uninvolved investigators who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved investigator.

(b) If necessary, the supervisor may administratively order any investigator to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.

    1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.

    2. The initial on-scene supervisor should not attempt to order any involved Investigator to provide any information other than public safety information.

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(c) Provide all available information to the Chief Investigator. If feasible, sensitive information should be communicated over secure networks.

(d) Take command of and secure the incident scene with additional bureau members until properly relieved by another supervisor or other assigned personnel or investigator.

(e) As soon as practicable, ensure that involved Investigators are transported (separately, if feasible)to a suitable location for further direction.

1. Each involved investigator should be given an administrative order not to discuss the incident with other involved investigators or bureau members pending further direction from a supervisor.

2. When an involved investigator’s weapon is taken or left at the scene for other than officer safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other investigators.

303.5.3 NOTIFICATIONS

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

- Chief Investigator
- Officer Involved Shooting Team (MOU)
- Outside agency investigators (if appropriate)
- Administrative Lieutenant (I.A.)
- Psychological/peer support
- Chaplain
- Coroner (if necessary)
- Involved officer's representative (if requested)
- Public Information Officer

303.5.4 INVOLVED INVESTIGATORS

The following shall be considered for the involved officer:

(a) Any request for legal or union representation will be accommodated.

1. Involved investigators shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.

2. Requests from involved non-bureau members should be referred to their employing agency.

(b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.

(c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).

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(d) A licensed psychotherapist will be made available by the Bureau to each involved investigator. A licensed psychotherapist may also be provided to any other affected bureau members, upon request.

  (a) Interviews with a licensed psychotherapist will be considered privileged.

  (b) An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.

  (c) A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).

(e) Although the Bureau will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness investigator (Government Code § 8669.4).

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

Each involved investigator shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Administration Lieutenant to make schedule adjustments to accommodate such leave.

303.5.5 NOTIFICATION TO DEPARTMENT OF JUSTICE

The California Department of Justice (DOJ) is required to investigate an officer-involved shooting resulting in the death of an unarmed civilian. The Administrative Lieutenant should promptly notify the DOJ in all incidents involving an officer-involved shooting resulting in the death of an unarmed civilian, including where it is undetermined if the civilian was unarmed.

For purposes of notification, “unarmed civilian” means anyone who is not in possession of a deadly weapon (Government Code § 12525.3).

303.6 CRIMINAL INVESTIGATION

The jurisdictional agency is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved investigators and to complete their interviews. The following shall be considered for the involved investigator:

(a) Bureau supervisors and personnel should not participate directly in any voluntary interview of bureau member(s) . This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.

(b) If requested, any involved investigator will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators (Government Code § 3303(i)). However, in order to maintain

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the integrity of each involved officer's statement, involved investigators shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.

(c) If any involved investigator is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the investigator to schedule an alternate time for the interview.

(d) Any voluntary statement provided by an involved investigator will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the investigator consents.

303.6.1 REPORTS BY INVOLVED BUREAU OF INVESTIGATION MEMEBERS

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

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

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

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

303.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

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

(a) Identification of all persons present at the scene and in the immediate area.

1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.

2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or

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probable cause to arrest. Without detaining the individual for the sole purpose of identification, investigators should attempt to identify the witness prior to his/her departure.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Bureau.

1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

(c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

303.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Lieutenant to assign appropriate investigative personnel to handle the investigation. Bureau investigators may be assigned to work with investigators from the jurisdictional agency.

All related bureau reports, except administrative and/or privileged reports, will be forwarded to the designated Lieutenant for approval. Administrative reports will be forwarded to the appropriate Lieutenant.

303.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, the Bureau will conduct an internal administrative investigation of bureau members to determine conformance with bureau policy. The investigation will be conducted under the supervision of a Lieutenant and will be considered a confidential investigator personnel file.

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

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

(b) If any investigator has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved investigator.

1. If a further interview of the investigator is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved investigator shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.

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(c) In the event that an involved investigator has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.

1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the investigator's physical and psychological needs have been addressed before commencing the interview.
2. If requested, the investigator shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual investigator's statement, involved investigators shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
3. Administrative interviews should be recorded by the Administrative Investigator. The involved investigator may also record the interview (Government Code § 3303(g)).
4. The investigator shall be informed of the nature of the investigation. If an investigator refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The investigator shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
5. The Administrative Lieutenant shall compile all relevant information and reports necessary for the Bureau to determine compliance with applicable policies.
6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

303.8 DEBRIEFING

Following an officer-involved shooting or death, the Bureau of Investigation should conduct both a critical incident/stress debriefing and a tactical debriefing.

303.8.1 CRITICAL INCIDENT/STRESS DEBRIEFING

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

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

Attendance at the debriefing shall only include those members of the Bureau directly involved in the incident, which can include support personnel. Family or other support personnel may attend

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with the concurrence of all those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Bureau, including supervisory and Internal Affairs personnel.

303.8.2 TACTICAL DEBRIEFING

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

303.9 MEDIA RELATIONS

Any media release shall be handled in accordance with District Attorney Policy.

The Bureau shall not subject any involved investigator to visits by the media (Government Code § 3303(e)). No involved investigator shall make any comment to the media unless he/she is authorized by the Chief Investigator. Department members receiving inquiries regarding officer-involved shootings or deaths occurring in other jurisdictions shall refrain from public comment and will direct those inquiries to the agency having jurisdiction and primary responsibility for the investigation.

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Firearms

304.1 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training. The Chief Investigator shall approve all Bureau firearms before they are aquired and utilized by any member of the Bureau of Investigation.

This policy does not apply to issues related to the use of a firearm 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 Bureau issued firearms. It is not intended for non-sworn employees who otherwise possess a CCW permit.

304.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation 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.

304.3 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 Rangemaster. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized Bureau range. All investigators shall carry authorized firearms while on duty unless exempted by the Chief Investigator. All investigators are encouraged to carry or have access to their duty weapon off-duty as well.

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 Chief Investigator. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

304.3.1 HANDGUNS

The authorized bureau-issued handgun is the Glock Model 45 MOS with Holosun 509T Red Dot Sight. :

The Chief Investigator may authorize other firearms for specialized assignments or administrative assignments. The Chief Investigator may authorize other sights and/or optics.

304.3.2 SHOTGUNS

The authorized department-issued shotgun is the Remington 870 12 Gauge.

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When not deployed, the shotgun shall be properly secured in a locking weapons rack in a locking weapons safe in the assigned vehicle with the magazine loaded, the action closed on an empty chamber and the safety in the safe position.

304.3.3 PATROL RIFLES

The authorized department-issued patrol rifle is the AR-15 variants 5.56 mm/.223.

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

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

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

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

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

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

(f) When authorized or requested by a supervisor.

(g) When needed to euthanize an animal.

When not deployed, the patrol rifle shall be properly secured in a locking weapons safe in the assigned vehicle with the chamber empty, magazine loaded and inserted into the magazine well, the bolt forward with the dust cover closed, and the selector lever in the safe position.

304.3.4 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 on the bureau list of approved firearms.

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

(c) The purchase of the handgun and ammunition shall be the responsibility of the member unless the handgun and ammunition are provided by the 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 Rangemaster 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 Chief Investigator or the authorized designee shall approve the ammunition.

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(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 Rangemaster, who will maintain a list of the information.

304.3.5 AUTHORIZED OFF-DUTY FIREARMS

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

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

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

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

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

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

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

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

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

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

(i) When armed, investigators shall carry their badges and Kern County District Attorney's Office Bureau of Investigation identification cards under circumstances requiring possession of such identification.

304.3.6 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

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qualification. Replacements for unserviceable or depleted ammunition issued by the Bureau shall be dispensed by the Rangemaster 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.

304.4 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.

304.4.1 REPAIRS OR MODIFICATIONS

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

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 Rangemaster.

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

304.4.2 HOLSTERS

Investigators shall carry their duty firearms in a Bureau issued or approved holster on the strong side of their waist area while on duty. Investigators may, at their own expense, wear a personally owned holster. Members shall periodically inspect their holsters to make sure they are serviceable, presentable, and provide the proper security and retention of the handgun. All personally owned holsters used while on duty shall be inspected and approved by the Range Master prior to carrying on duty.

304.5 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 Rangemaster. Members shall not dry fire or practice quick draws except as instructed by the Rangemaster or other firearms training staff.

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

(d) Shotguns or rifles removed from vehicles or the equipment storage safe shall be loaded and unloaded in a safe location outside of the vehicle. All firearms shall be pointed in a safe direction or into clearing barrels when available.

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(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 Rangemaster approved by the Bureau for inspection and repair. Any firearm deemed in need of repair or service by the Rangemaster will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

304.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly and upon access or possession by another person. Rifles shall be inspected at the beginning of the shift by the member to whom the weapon is issued. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. Inspection of the rifle shall be done while standing outside of your vehicle. All firearms shall be pointed in a safe direction or into clearing barrels.

Personally owned firearms may be safely stored in a locked locker or container.Bureau-owned firearms shall be stored in the appropriate equipment storage room or safe. Handguns may remain loaded if they are secured in an appropriate holster. Rifles shall be unloaded in a safe manner outside the building and then stored in the appropriate equipment storage area.

304.5.2 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).

304.5.3 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 § 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).

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304.5.4 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.

304.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete quarterly training with their duty firearm. Lieutenant's and above shall qualify once per year. In addition to quarterly training, all members will qualify annually with their off duty firearms. Qualification with off duty and/or secondary firearms shall take place in the first quarter of the calendar year. All training and qualifications must be on an approved range course and under the direction of a bureau Rangemaster.

All members must attend an approved pistol red dot course and successfully qualify before being authorized to carry the department issued pistol with red dot sight on duty.

304.6.1 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.

304.7 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 reports shall be made as follows:

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

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

304.7.1 WARNING AND OTHER SHOTS

Generally, 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.

Warning shots shall not be used.

304.7.2 DESTRUCTION OF ANIMALS

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

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

304.8 RANGEMASTER DUTIES

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

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this bureau to verify proper operation. The Rangemaster 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 Rangemaster.

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

The Rangemaster shall complete and submit to the Administrative Lieutenant documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been

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approved by the Bureau, a list of each member who completes the training. The Rangemaster should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Administrative Lieutenant.

304.9 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 Kern County District Attorney's Office Bureau of Investigation identification card, bearing the investigator’s name, a full-face photograph, identification number, the investigator’s signature and the signature of the Chief Investigator or the official seal of the Bureau and must present this identification to airline officials when requested. The investigator shall also carry their issued badge along with the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).

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

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

(e) Investigators must have completed the mandated TSA security training covering investigators flying while armed. The training shall be given by the 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.

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

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

304.10 CARRYING FIREARMS OUT OF STATE

Qualified, active, full-time investigators of this department 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 Kern County District Attorney's Office Bureau of Investigation identification card whenever carrying such firearm.

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

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

(d) The investigator will remain subject to this and all other department 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.

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Discriminatory Harassment

305.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent 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.

305.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation 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.

305.3 DEFINITIONS

Definitions related to this policy include:

305.3.1 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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305.3.2 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.

305.3.3 ADDITIONAL CONSIDERATIONS

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

(a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the California 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.

305.3.4 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.

305.4 RESPONSIBILITIES

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

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

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

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

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

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

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

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

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

(d) Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.

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

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

305.4.2 SUPERVISOR’S ROLE
Supervisors and managers shall be aware of the following:

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

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

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

305.4.3 QUESTIONS OR CLARIFICATION
Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief Investigator, the Personnel Director, the xxxxxxxxxx, or the California Civil Rights Department for further information, direction, or clarification (Government Code § 12950).

305.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any

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continuing abusive or hostile work environment. It is the policy of the Bureau that all complaints of discrimination, retaliation, or harassment shall be fully documented and promptly and thoroughly investigated.

305.5.1 SUPERVISOR RESOLUTION

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

305.5.2 FORMAL INVESTIGATION

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

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any members involved. No influence will be used to suppress any complaint and no member will be subject to retaliation or reprisal for filing a complaint, encouraging others to file a complaint, or for offering testimony or evidence in an investigation.

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

Members who believe they have been discriminated against, harassed, or retaliated against because of their protected status, are encouraged to follow the chain of command but may also file a complaint directly with the Chief Investigator, the Personnel Director, or the District Attorney

305.5.3 ALTERNATIVE COMPLAINT PROCESS

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

305.6 DOCUMENTATION OF COMPLAINTS

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

(a) Approved by the Chief Investigator, the xxxxxxxxxx, or the Personnel Director, depending on the ranks of the involved parties.

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

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

305.7 TRAINING

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

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

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

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

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

(c) All employees shall receive refresher training every two years thereafter.

If the required training is to be provided by the Civil Rights Department online training courses, the Administrative Lieutenant should ensure that employees are provided the following website address to the training course: https://calcivilrights.ca.gov (Government Code § 12950; 2 CCR 11023).

305.7.2 TRAINING RECORDS
The Administrative Lieutenant shall be responsible for maintaining records of all discriminatory harassment training provided to members. Records shall be retained in accordance with established records retention schedules and for a minimum of two years (2 CCR 11024).

305.8 WORKING CONDITIONS

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

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305.9 REQUIRED POSTERS

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

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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 in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to reduce the potential for pursuit-related collisions. Vehicular pursuits require investigatorsinvestigators to exhibit a high degree of common sense and sound judgment. Investigators Investigators must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing investigatorsinvestigators.

The Bureau of Investigation assigns unmarked vehicles to its investigators. Investigators in such vehicles may become involved in emergency activities involving serious crimes or life threatening situations. The exemptions provided by Vehicle Code § 21055 do not apply to investigators using vehicles without emergency equipment. Vehicles not equipped with red light and siren are prohibited from initiating or joining in any pursuit.

The Bureau of Investigation has one vehicle equipped with lights and siren available for use during enforcement actions. Examples of enforcement actions are SIT operations, search warrant service, and arrest warrant service.While Vehicle Code § 21055 provides exemptions for violating the rules of the road under certain circumstances, bureau members are prohibited from being directly involved in any vehicle pursuit.

In the event a vehicle flees from bureau personnel, investigators shall notify the appropriate law enforcement agency via radio. The notification shall include the following minimum information:

- Vehicle description
- Direction of travel
- Last known location
- Reason the vehicle/subject is wanted

Pursuing a vehicle until another law enforcement agency arrives is not authorized by this policy.

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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 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 the Communications Center.

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

307.3 RESPONSIBILITIES OF RESPONDING INVESTIGATOR(S)

Investigators shall exercise sound judgment and care with due regard for life and property when responding to an emergency call.. Investigators shall obey the rules of the road at all times when responding to any call for assistance.

If an investigator believes a Code-3 response is necessary he/she may request the responsible law enforcement agency dispatch their personnel Code-3, via radio.

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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 department 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 Kern County District Attorney's Office Bureau of Investigation'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. It is also the policy of this bureau to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

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 incomplete 9-1-1 calls.

(b) When practicable, investigators should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.

(c) Investigators should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.

(d) When practicable and legally permitted, video or audio record all significant statements and observations.

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(e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Investigative Bureau in the event that the injuries later become visible.

(f) Investigators should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.

(g) If the suspect is no longer at the scene, investigators should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.

(h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).

(i) When completing an incident or arrest 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. When reasonably available, the arresting investigator should attach a copy of the order to the incident or arrest report.

(j) Investigators should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:

1. Whether the suspect lives on the premises with the victim.
2. Claims by the suspect that the victim provoked or perpetuated the violence.
3. The potential financial or child custody consequences of arrest.
4. The physical or emotional state of either party.
5. Use of drugs or alcohol by either party.
6. Denial that the abuse occurred where evidence indicates otherwise.
7. A request by the victim not to arrest the suspect.
8. Location of the incident (public/private).
9. Speculation that the complainant may not follow through with the prosecution.
10. 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 marital status of the victim or suspect.
11. The social status, community status, or professional position of the victim or suspect.

308.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, investigators should:

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(a) Advise the victim that there is no guarantee the suspect will remain in custody.

(b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.

(c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

308.4.2 IF NO ARREST IS MADE

If no arrest is made, the investigator should:

(a) Advise the parties of any options, including but not limited to:

1. Voluntary separation of the parties.
2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).

(b) Document the resolution in a report.

308.5 VICTIM ASSISTANCE

Because victims may be traumatized or confused, investigators should be aware that a victim's behavior and actions may be affected:

(a) Victims should be provided with the bureau's domestic violence information handout, even if the incident may not rise to the level of a crime.

(b) Victims should also be alerted to any available victim advocates, shelters, and community resources.

(c) When an involved person requests law enforcement assistance while removing essential items of personal property, investigators should stand by for a reasonable amount of time.

(d) If the victim has sustained injury or complaints of pain, investigators should seek medical assistance as soon as practicable.

(e) Investigators should ask the victim whether the victim has a safe place to stay and assist in arranging transportation to an alternate shelter if the victim expresses a concern for the victim's safety or if the investigator determines that a need exists.

(f) Investigators should make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.

(g) If appropriate, investigators should seek or assist the victim in obtaining an emergency order if appropriate.

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

308.6 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

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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).

308.7 VERIFICATION OF COURT ORDERS

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

(a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.

  1. If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the investigator shall inform the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).

(b) Check available records or databases that may show the status or conditions of the order.

  1. Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).

(c) Contact the issuing court to verify the validity of the order.

(d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

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

308.8 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).

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(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)
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).

308.9 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.

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(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)).

308.10 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 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 Manager to maintain and report this information as required.

308.11 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) A temporary restraining order, emergency protective order, or an order issued after a hearing shall, at the request of the petitioner, be served on the restrained person by an investigator who is present at the scene of a reported domestic violence incident or when the investigator receives a request from the petitioner to provide service of the order (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).

1. An investigator should ensure that the Records Section is notified of any firearm obtained for entry into the Automated Firearms System (Family Code § 6383) (see the Records Section Policy for additional guidance).

(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

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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).

308.12 PUBLIC ACCESS TO POLICY

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

308.13 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).

308.14 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).

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Temporary Custody of Juveniles

309.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Kern County District Attorney's Office Bureau of Investigation.

309.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

Examples of secure custody include:

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

(b) A juvenile handcuffed to a rail.

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

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

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

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

Sight and sound separation - Located or arranged to prevent physical, visual, or auditory contact that is more than brief or inadvertent.

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

309.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation is committed to releasing juveniles from temporary custody as soon as reasonably practicable and keeping juveniles safe while they are in temporary custody at the Kern County District Attorney's Office Bureau of Investigation. Juveniles should be held in temporary custody only for as long as reasonably necessary for processing, transfer, or release. Such temporary custody shall not exceed six hours.

309.3 JUVENILES WHO SHOULD NOT BE HELD

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

(a) Unconscious

(b) Seriously injured

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

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

(e) Extremely violent or continuously violent

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

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

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

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

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

309.4 CUSTODY OF JUVENILES

Investigators should take custody of a juvenile and temporarily hold the juvenile at the Kern County District Attorney's Office Bureau of Investigation when there is no other lawful and practicable alternative to temporary custody.

No juvenile should be held in temporary custody at the Kern County District Attorney's Office Bureau of Investigation without authorization of the arresting investigator's supervisor. Juveniles taken into custody shall be held in non-secure custody unless otherwise authorized by this policy.

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

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

Juveniles 11 years of age or younger who have committed an offense that would subject an adult to arrest may be held in non-secure custody for the offenses listed in Welfare and Institutions Code § 602(b) (murder and the sexual assault offenses) and should be referred to a probation officer for a placement determination (Welfare and Institutions Code § 602.1).

309.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS
Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, investigators may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or

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to the station to await a parent). Juvenile status offenders shall not be held in secure custody (34 USC § 11133).

309.4.3 CUSTODY OF JUVENILE OFFENDERS
Juvenile offenders should be held in non-secure custody while at the Kern County District Attorney's Office Bureau of Investigation unless another form of custody is authorized by this policy or is necessary due to exigent circumstances.

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

A juvenile offender who is 14 years of age or older and taken into custody for committing or attempting to commit a felony with a firearm shall not be released and shall be transported to a juvenile facility (Welfare and Institutions Code § 625.3).

A juvenile offender suspected of committing murder, a sex offense described in Welfare and Institutions Code § 602(b) that may subject the juvenile to criminal jurisdiction under Welfare and Institutions Code § 707, or a serious or violent felony should be referred to a probation officer for a decision on further detention.

In all other cases the juvenile offender may be:

(a) Released upon warning or citation.

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

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

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

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

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

309.5 ADVISEMENTS

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

Whenever a juvenile is taken into temporary custody, the juvenile shall be given the *Miranda* rights advisement regardless of whether questioning is intended. This does not apply to juvenile non-

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offenders taken into temporary custody for their safety or welfare (Welfare and Institutions Code § 625).

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

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

309.6 JUVENILE CUSTODY LOGS

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

(a) Identifying information about the juvenile.

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

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

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

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

(f) Time of all safety checks.

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

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

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

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

See attachment: Secure_Juvenile_Detention_Log_BSCC_Rev_Jan-22-.pdf

309.7 NO-CONTACT REQUIREMENTS

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

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

309.8 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Kern County District Attorney's Office Bureau of Investigation shall ensure the following:

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

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

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

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

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

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

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

(f) Juveniles shall be provided sanitary napkins, panty liners, and tampons as requested (15 CCR 1143).

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

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

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

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

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

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

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

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

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

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

(p) Juveniles shall have access to language services (15 CCR 1143).

(q) Juveniles shall have access to disability services (15 CCR 1143).

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

While held in temporary custody, juveniles shall be informed in writing of what is available to them pursuant to 15 CCR 1143 and it shall be posted in at least one conspicuous place to which they have access (15 CCR 1143).

309.9 USE OF RESTRAINT DEVICES

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

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

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

309.10 PERSONAL PROPERTY

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

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

309.11 SECURE CUSTODY

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

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to themselves or others. Factors to be considered when

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determining if the juvenile offender presents a serious security risk to themselves or others include the following (15 CCR 1145):

(a) Age, maturity, and delinquent history

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

(c) The juvenile offender's behavior

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

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

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

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

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

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

309.11.1 LOCKED ENCLOSURES

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

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

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

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

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

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

1. All safety checks shall be logged.

2. The safety check should involve questioning the juvenile as to the juvenile's well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).

3. Requests or concerns of the juvenile should be logged.

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(e) Juveniles of different genders shall not be placed in the same locked room (15 CCR 1147).

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

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

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

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

(a) Immediate notification of the on-duty supervisor andChief Investigator.

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

(c) Notification of the appropriate prosecutor.

(d) Notification of the County attorney.

(e) Notification to the coroner.

(f) Notification of the juvenile court.

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

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

(i) Evidence preservation.

309.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

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

Prior to conducting a custodial interrogation, including the waiver of *Miranda* rights, an investigator shall permit a juvenile 17 years of age or younger to consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived by the juvenile (Welfare and Institutions Code § 625.6).

Threats, physical harm, deception, or psychologically manipulative interrogation tactics shall not be used by an investigator during a custodial interrogation of a juvenile (Welfare and Institutions Code § 625.7).

The requirements to consult with legal counsel or to refrain from the use of prohibited interrogation techniques do not apply when (Welfare and Institutions Code § 625.6; Welfare and Institutions Code § 625.7):

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

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1. The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

309.13.1 MANDATORY RECORDINGS OF JUVENILES

Any interrogation of an individual under 18 years of age who is in custody and suspected of committing murder shall be audio and video recorded when the interview takes place at a bureau facility, jail, detention facility, or other fixed place of detention. The recording shall include the entire interview and a *Miranda* advisement preceding the interrogation (Penal Code § 859.5).

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

(a) Recording is not feasible because of exigent circumstances that are later documented in a report.

(b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.

(c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

(d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an investigator, the individual being interrogated, or another individual. Such circumstances shall be documented in a report.

(f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.

(g) The questions are part of a routine processing or booking, and are not an interrogation.

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

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

309.14 FORMAL BOOKING

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

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

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

(a) The gravity of the offense

(b) The past record of the offender

(c) The age of the offender

309.15 RELEASE OF INFORMATION CONCERNING JUVENILES

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

Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the and the appropriate Investigative Bureau supervisors to ensure that personnel responsible for the release of information act within legal guidelines.

309.16 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

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

309.17 RELIGIOUS ACCOMMODATION

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

309.18 TRAINING

Bureau members should be trained on and familiar with this policy and any supplemental procedures.

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Hate Crimes

310.1 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 Kern County District Attorney's Office Bureau of Investigation 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; Penal Code § 422.87).

310.1.1 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

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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.

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

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
- Displaying hate material on your own property

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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.

Religious bias - In recognizing suspected religion-bias hate crimes, investigators should consider whether there were targeted attacks on, or biased references to, symbols of importance to a particular religion or articles considered of spiritual significance in a particular religion (e.g., crosses, hijabs, Stars of David, turbans, head coverings, statues of the Buddha).

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

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

310.2 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. 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 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 Chief Investigator or other command-level officer to whom the Chief Investigator formally delegates this responsibility.

310.3 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.

310.3.1 HATE CRIMES COORDINATOR

A bureau member appointed by the Chief Investigator 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) Coordinating with the Administrative Lieutenant to develop a schedule of required hate-crime training and include in a training plan recognition of hate crime bias characteristics, including information on general underreporting of hate crimes.

(b) 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.

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(c) Maintaining the bureau's supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).

(d) Annually assessing this policy, including:

1. Keeping abreast of POST model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, the supplemental hate crime report, and planning and prevention methods.

310.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

310.4.1 INITIAL RESPONSE

First responding investigators should know the role of all bureau personnel as they relate to the bureau's investigation of hate crimes and/or incidents. Responding investigators should evaluate the need for additional assistance and, working with supervision and/or investigations, access needed assistance if applicable.

310.4.2 INVESTIGATION

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

(a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).

(b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.

(c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).

(d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.

(e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:

1. Hate literature.
2. Spray paint cans.
3. Threatening letters.
4. Symbols used by hate groups.
5. Desecration of religious symbols, objects, or buildings.

(f) Request the assistance of translators or interpreters when needed to establish effective communication.

(g) Conduct a preliminary investigation and record information regarding:

1. Identity of suspected perpetrators.

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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.

310.5 TRAINING

All members of this bureau will receive POST-approved training on hate crime recognition and investigation (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.

(b) Accurate reporting by investigators, including information on the general underreporting of hate crimes.

(c) Distribution of hate crime brochures.

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(d) When a gun violence restraining order may be appropriate for prevention of hate crimes (Penal Code § 13519.6).

310.6 APPENDIX

See attachments:

Statutes and Legal Requirements.pdf

Hate Crime Checklist.pdf

Supplemental Hate Crime Report.pdf

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Standards of Conduct

311.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the Kern County District Attorney's Office Bureau of Investigation 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 that may be disseminated by the bureau, the member's supervisors, the District Attorney's Office, or the County of Kern.

311.2 POLICY

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

311.3 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.

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

311.3.2 SUPERVISOR RESPONSIBILITIES
Supervisors and managers are required to follow all policies and procedures and may be subject to discipline for:

(a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.

(b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.

(c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.

(d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

311.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

Discipline may be initiated for any good cause. It is not mandatory that a specific policy or rule violation be cited to sustain discipline. This policy is not intended to cover every possible type of misconduct.

311.5 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:

311.5.1 LAWS, RULES AND ORDERS

(a) Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in 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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311.5.2 ETHICS

(a) Using or disclosing one's status as a member of the Kern County District Attorney's Office Bureau of Investigation in any way that could reasonably be perceived as an attempt to gain influence or authority for non-bureau business or activity.

(b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.

(c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).

(d) Acceptance of fees, gifts or money contrary to the rules of the 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.

311.5.3 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.

311.5.4 RELATIONSHIPS

(a) Unwelcome solicitation of a personal or sexual relationship while onduty 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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311.5.5 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.

311.5.6 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) 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 Chief Investigator 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.

311.5.7 EFFICIENCY

(a) Neglect of duty.

(b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.

(c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.

(d) Unauthorized sleeping during on-duty time or assignments.

(e) Failure to notify the Bureau within 24 hours of any change in residence address or contact numbers.

(f) Failure to notify the Personnel Department of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

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311.5.8 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:

1. While on bureau premises.
2. At any work site, while onduty or while in uniform, or while using any bureau equipment or system.
3. 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:

1. Unauthorized attendance while onduty at official legislative or political sessions.
2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while onduty or, on bureau property except as expressly authorized by County policy, the memorandum of understanding, or the Chief Investigator.

(h) Engaging in political activities during assigned working hours except as expressly authorized by County policy, the memorandum of understanding, or the Chief Investigator.

(i) Any act on or offduty that brings discredit to this bureau.

311.5.9 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

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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 or the County.

(g) Use of obscene, indecent, profane or derogatory language while onduty or in uniform.

(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 Chief Investigator of such action.

(m) Any other on or offduty conduct which any member knows or reasonably should know is unbecoming a member of the District Attorney's Office, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon the District Attorney's Office or its members.

311.5.10 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.

(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.

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(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.

311.5.11 INTOXICANTS

(a) Reporting for work or being at work while intoxicated or when the member’s ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.

(b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.

(c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

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Information Technology Use

312.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the proper use of bureau information technology resources, including computers, electronic devices, hardware, software and systems.

312.1.1 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 Kern County District Attorney's Office Bureau of Investigation 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, pagers, modems or any other tangible computer device generally understood to comprise hardware.

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

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

312.2 POLICY

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

312.3 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 bureau computer system.

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

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The 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).

312.4 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 Lieutenant.

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.

312.4.1 HARDWARE

Access to technology resources provided by or through the 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.

312.4.2 INTERNET USE

Internet access provided by or through the 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.

312.4.3 SOFTWARE

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement.

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any 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 Chief Investigator 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. Such unauthorized use of software exposes the Bureau and involved members to severe civil and criminal penalties.

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Introduction of software by members should only occur as part of the automated maintenance or update process of bureau- or County-approved or installed programs by the original manufacturer, producer or developer of the software.

Any other introduction of software requires prior authorization from IT staff and a full scan for malicious attachments.

312.5 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.

312.6 INSPECTION OR REVIEW

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

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

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Report Preparation

313.1 PURPOSE AND SCOPE

Report preparation is a major part of each investigator's job. The purpose of a report is to document sufficient information to refresh the investigator’s memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of substantial formalized training and on-the-job training.

313.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. It is the responsibility of the assigned employee to complete and submit all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads, or arrest reports where the suspect remains in custody should not be delayed.

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.

The deliberate failure to document an event may be considered a dereliction of duty and grounds for disciplinary action, up to and including dismissal. Knowingly making a false report is a criminal offense.

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

313.2 REQUIRED REPORTING

A report shall be completed on all Victim's complaints and statements; Witness statements and interviews; Defendants' statements and interrogatories; or while obtaining any physical or documentary evidence. A report is also required in all of the following situations unless otherwise approved by a supervisor.

313.2.1 CRIMINAL ACTIVITY

When a member responds to a call for service, or as a result of self-initiated activity becomes aware of any activity where a crime has occurred, the member shall document the incident regardless of whether a victim desires prosecution. Activity to be documented in a written report includes:

(a) All arrests

(b) All felony crimes

(c) Non-Felony incidents involving threats or stalking behavior

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(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

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

Misdemeanor crimes where the victim does not desire a report shall be documented using the bureau-approved alternative reporting method (e.g., dispatch log).

313.2.2 NON-CRIMINAL ACTIVITY

The following incidents shall be documented:

(a) Anytime an investigator points a firearm at any person

(b) Any use of force against any person by a member of this department (see the Use of Force Policy)

(c) Any firearm discharge (see the Firearms Policy)

(d) Any found property or found evidence

(e) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy

(f) All protective custody detentions

(g) Suspicious incidents that may place the public or others at risk

(h) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

313.2.3 INJURY OR DAMAGE BY BUREAU OF INVESTIGATION PERSONNEL

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

313.3 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.

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313.3.1 REPORT FORMAT

Each member of the Bureau of Investigation is responsible for preparing a report on all phases of each investigation that is conducted by them.

(a) A synopsis shall be included at the begining of all reports of investigations except where the report length is so short as to make the synopsis impractical.

(b) All reports shall be clear in describing the contents.

(c) All reports shall be complete as to thoroughness of the investigation and legal requirements of the case.

(d) All reports shall be concise as to verbiage without diminishing completeness.

(e) All reports shall be factual as to all aspects of the matter under investigation.

(f) All reports shall be identified by a report number (commonly known as an 'I' number) which can be obtained from the Bureau Secretary.

Major or lengthy reports may be dictated to the Bureau Secretary via tape or digital recorder. Minor reports shall be typed by the investigator or investigative aide.

After the reports have been reviewed by a Supervisor, the report(s) shall be returned to the author for review and signature and distribution. The author shall save a copy of the report on the "L" drive in the appropriate annual folder.

313.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS

County, state and federal agency forms may be block printed as appropriate. In general, the form itself may make the requirement for typing apparent.

313.4 REPORT CORRECTIONS AND APPROVAL

Investigative reports are scrutinized by many segments of the Criminal Justice System and the public. Prior to that, reports are to be reviewed and approved by supervisors within the Bureau of Investigation. In order for the report to be approved it must achieve a certain standard of acceptability. Reports that are illegible, sloppy, incomplete, incomprehensible, or contain misspelled words will not be approved. Poorly written reports not only reflect on the work of the individual, but on the Bureau of Investigation as well.

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should note his/her corrections and state the reason(s) for rejection. The original report shall be returned to the reporting employee for correction as soon as practical. It shall be the responsibility of the originating investigator to ensure that any report returned for correction is processed in a timely manner.

313.5 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and submitted for filing and distribution shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted may be corrected or modified by the authoring investigator only with the knowledge and authorization of the reviewing supervisor.

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Court Appearance And Subpoenas

314.1 PURPOSE AND SCOPE

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

314.1.1 DEFINITIONS

On-Call - When an employee has appeared in court, or is at the time on-duty, and has been told by a member of the court that he/she is free to leave the court or return to duty, subject to being available by phone if called back.

Standby - When an employee receives a subpoena of a type which allows him or her to not appear in court, but remain available by phone so that he or she may be directed to appear in court within a reasonable amount of time.

Trailing Status - When an employee remains on standby status for additional court sessions until notified otherwise.

Mandatory Appearance - Subpoenas marked as mandatory appearance require an employee's physical appearance in the specified court. Failure to timely appear in the specified court, either intentionally or by negligence, may result in disciplinary action.

314.2 COURT SUBPOENAS

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

314.2.1 SERVICE OF SUBPOENA

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

314.2.2 VALID SUBPOENAS

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

314.2.3 ACCEPTANCE OF SUBPOENA

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(a) Only the employee named in a subpoena, his/her immediate supervisor, or the front counter of the office in accordance with District Attorney policy and practice, shall be authorized to accept service of a subpoena. (Penal Code § 1328(c)).

(b) Any supervisor or other authorized individual accepting a subpoena on behalf of another employee shall immediately check available schedules to determine the availability of the named employee for the date listed on the subpoena.

(c) Once a subpoena has been received by a supervisor or other authorized individual, a copy of the subpoena shall be promptly provided to individually named employee.

314.2.4 REFUSAL OF SUBPOENA

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

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

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

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

314.2.5 COURT STANDBY

To facilitate court standby agreements with the courts, employees are required to provide and maintain current information on their address and phone number with the Bureau. Employees are required to notify the Department within 24 hours of any change in residence address or home phone number, and to provide accurate and reasonably reliable means or methods for contact.

If an employee on standby changes his/her location during the day, the employee shall notify a supervisor of how he/she can be reached by telephone. Employees are required to remain on standby each day the case is trailing. In a criminal case the Deputy District Attorney handling the case is the only person authorized to excuse an employee from standby status.

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314.2.6 OFF-DUTY RELATED SUBPOENAS
Employees receiving valid subpoenas for actions taken off-duty not related to their employment with Bureau of Investigation shall comply with the requirements of the subpoena. Employees receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

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

314.3 CIVIL SUBPOENAS

The Bureau will compensate employees who appear in their official capacity on civil matters arising out of the employee's official duties as directed by the current Memorandum of Understanding. In such situations, the Bureau will also reimburse any investigator for reasonable and necessary travel expenses.

The District Attorney's Office will receive reimbursement for the investigator's compensation through the civil attorney of record who subpoenaed the investigator.

314.3.1 PROCEDURE
To ensure that the investigator is able to appear when required, that the investigator is compensated for such appearance, and to protect the District Attorney's Office right to reimbursement, investigators shall follow the established procedures for the receipt of a civil subpoena.

314.3.2 CIVIL SUBPOENA ACCEPTANCE
Subpoenas shall not be accepted in a civil action in which the investigator or Bureau of Investigation is not a party without properly posted fees pursuant to Government Code § 68097.6.

314.3.3 PARTY MUST DEPOSIT FUNDS
The party in the civil action that seeks to subpoena an investigator must deposit the statutory fee of $275 (Government Code § 68097.2) for each appearance before such subpoena will be accepted. Parties seeking to have the investigator make multiple appearances must make an additional deposit in advance.

314.4 OVERTIME APPEARANCES

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

The overtime on such appearance will be paid from the time the investigator left his/her residence until he/she returned.

314.5 COURTROOM PROTOCOL

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

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314.5.1 PREPARATION FOR TESTIMONY

Before the date of testifying, the subpoenaed investigator shall request a copy of relevant reports and become familiar with their content in order to be prepared for court.

314.5.2 COURTROOM ATTIRE

Employees shall dress in uniform or business attire. Suitable business attire for men would consist of a coat, tie, and dress pants. Suitable business attire for female employees would consist of a dress jacket, dress blouse, and skirt or slacks. Refer to the Personal Appearance Policy for specifics.

314.6 COURTHOUSE DECORUM

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

314.7 TESTIFYING AGAINST THE INTEREST OF THE PEOPLE OF THE STATE

Any member or employee who is subpoenaed to testify, who has agreed to testify, or who anticipates testifying or providing information on behalf of or at the request of any party other than the People of the State of California, any county, any city, or any of their officers and employees in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Chief Investigator.

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

(a) Providing testimony or information for the defense in any criminal trial or proceeding;

(b) Providing testimony or information for the plaintiff in a civil proceeding against any county, any city, or their officers and employees; or

(c) Providing testimony or information on behalf of or at the request of any party other than any County, city, or any county or city official in any administrative proceeding, including but not limited to personnel and/or disciplinary matter.

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Outside Agency Assistance

315.1 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.

315.2 POLICY

It is the policy of the Kern County District Attorney's Office Bureau of Investigation 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 bureau.

315.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to a Lieutenant for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

When another law enforcement agency requests assistance from the bureau, a Lieutenant 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 the bureau.

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

Arrestees may be temporarily detained by the bureau until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by the bureau will not ordinarily be booked by bureau personnel. Only in exceptional circumstances, and subject to supervisor approval, will the 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.

315.3.1 INITIATED ACTIVITY

Any on-duty investigator who engages in law enforcement activities of any type that are not part of a mutual aid request and take place outside the jurisdiction of the Kern County District Attorney's Office Bureau of Investigation shall notify his/her supervisor. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

315.4 REQUESTING OUTSIDE ASSISTANCE

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

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

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315.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities shall be documented in a report or as directed by a Lieutenant.

315.6 MANDATORY SHARING

Equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies should be documented and updated as necessary by the Administrative Lieutenant or the authorized designee.

The documentation should include:

(a) The conditions relative to sharing.

(b) The training requirements for:

1. The use of the supplies and equipment.
2. The members trained in the use of the supplies and equipment.

(c) Any other requirements for use of the equipment and supplies.

Copies of the documentation should be provided to the Administrative Lieutenant to ensure use of the equipment and supplies is in compliance with the applicable sharing agreements.

The Administrative Lieutenant should maintain documentation that the appropriate members have received the required training.

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Major Incident Notification

316.1 PURPOSE AND SCOPE

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

316.2 POLICY

The Bureau of Investigation recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of the Bureau to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

316.3 MINIMUM CRITERIA FOR NOTIFICATION

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

- Homicides
- Traffic with fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shooting Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a District Attorney's Office member
- Arrest of a District Attorney's Office employee or prominent Kern County official
- Aircraft crash damage and/or injury or death
- In-custody deaths

316.4 DUTY LIEUTENANT RESPONSIBILITY

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

316.4.1 STAFF NOTIFICATION

In the event an incident occurs described in the Major Incident Notification Policy, the Chief Investigatory shall be notified.

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Communications with Persons with Disabilities

317.1 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.

317.1.1 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.

317.2 POLICY

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

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

317.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

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

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

(a) Working with the County ADA coordinator regarding the Kern County District Attorney's Office Bureau of Investigation’s efforts to ensure equal access to services, programs and activities.

(b) Developing reports, new procedures, or recommending modifications to this policy.

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(c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to bureau services, programs and activities.

(d) Ensuring that a list of qualified interpreter services is maintained and available to each Lieutenant. The list should include information regarding the following:

1. Contact information
2. Availability

(e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.

(f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.

(g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to bureau services, programs and activities.

317.4 FACTORS TO CONSIDER

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

(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.

317.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

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

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

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

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

(a) The methods of communication usually used by the individual.

(b) The nature, length and complexity of the communication involved.

(c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Kern County District Attorney's Office Bureau of Investigation, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

317.6 TYPES OF ASSISTANCE AVAILABLE

Kern County District Attorney's Office Bureau of Investigation members shall never refuse to assist an individual with disabilities who is requesting assistance. The Bureau will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The 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.

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

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317.7 AUDIO RECORDINGS AND ENLARGED PRINT

The Bureau may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

317.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

(a) Available within a reasonable amount of time but in no event longer than one hour if requested.

(b) Experienced in providing interpretation services related to law enforcement matters.

(c) Familiar with the use of VRS and/or video remote interpreting services.

(d) Certified in either American Sign Language (ASL) or Signed English (SE).

(e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

(f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use bureau-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

317.9 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Bureau will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

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

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317.10 COMMUNITY VOLUNTEERS

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Bureau to provide interpreter services.

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

317.11 FAMILY AND FRIENDS

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

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

(a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.

(b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

317.12 REPORTING

Whenever any member of the 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.

317.13 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, the Bureau will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where

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appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

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

317.14 ARREST AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting investigator shall use bureau-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the investigator reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee’s health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

317.15 COMPLAINTS

The Bureau shall ensure that individuals with disabilities who wish to file a complaint regarding members of the 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 department ADA Coordinator.

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

317.16 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this bureau are important to the ultimate success of more traditional law enforcement duties. This bureau will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

317.17 TRAINING

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

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(a) Awareness and understanding of this policy and related procedures, related forms and available resources.

(b) Procedures for accessing qualified interpreters and other available resources.

(c) Working with in-person and telephone interpreters and related equipment.

The Administrative Lieutenant shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Administrative Lieutenant shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

317.17.1 CALL-TAKER TRAINING

Members shall be trained in the use of TTY equipment protocols for communicating with individuals who are deaf, hard of hearing or who have speech impairments. Such training and information should include:

(a) The requirements of the ADA and Section 504 of the Rehabilitation Act for telephone emergency service providers.

(b) ASL syntax and accepted abbreviations.

(c) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls, using proper syntax, abbreviations and protocol when responding to TTY or TDD calls.

(d) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

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Mandatory Employer Notification

318.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the requirements and procedures to follow when a public or private school employee (teacher and non-teacher) has been arrested under certain circumstances.

318.2 POLICY

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

318.3 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

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

318.3.1 ARREST OF PUBLIC SCHOOL TEACHER

In the event a public school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief Investigator or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the teacher and to immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed (Health and Safety Code § 11591; Penal Code § 291).

318.3.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

In the event a public school non-teacher employee is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a), or Education Code § 44010, the Chief Investigator or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the non-teacher and to immediately give written notice of the arrest to the governing board of the school district employing the person (Health and Safety Code § 11591; Penal Code § 291).

318.3.3 ARREST OF PRIVATE SCHOOL TEACHER

In the event a private school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290 or Education Code § 44010, the Chief Investigator or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher and to immediately give written notice of the arrest to the private school authority employing the teacher (Health and Safety Code § 11591; Penal Code § 291.1).

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318.3.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR

In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11591.5 or Health and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the Chief Investigator or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor’s Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

318.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES

In the event an employee of a community treatment facility, a day treatment facility, a group home, a short-term residential therapeutic program or a foster family agency is arrested for child abuse (as defined in Penal Code § 11165.6) and the employee is free to return to work where children are present, the investigating member shall notify the licensee of the charge of abuse (Health and Safety Code § 1522.2).

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Biological Samples

319.1 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.

319.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation 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.

319.3 PERSONS SUBJECT TO DNA COLLECTION

Those who must submit a biological sample include (Penal Code § 296):

(a) A person, including a juvenile, upon conviction or other adjudication of any felony offense.

(b) A person, including a juvenile, upon conviction or other adjudication of any offense if the person has a prior felony on record.

(c) An adult arrested or charged with any felony.

319.4 PROCEDURE

When an individual is required to provide a biological sample, a trained employee shall obtain the sample in accordance with this policy.

319.4.1 COLLECTION

The following steps should be taken to collect a sample:

(a) Verify that the individual is required to provide a sample pursuant to Penal Code § 296; Penal Code § 296.1.

(b) Verify that a biological sample has not been previously collected from the offender by querying the individual's criminal history record for a DNA collection flag or, during regular business hours, calling the California Department of Justice (DOJ) designated DNA laboratory. There is no need to obtain a biological sample if one has been previously obtained.

(c) Use a DNA buccal swab collection kit provided by the Kern Regional Crime Lab to perform the collection and take steps to avoid cross contamination.

319.5 USE OF FORCE TO OBTAIN SAMPLES

If a person refuses to cooperate with the sample collection process, investigators should attempt to identify the reason for refusal and seek voluntary compliance without resorting to using force.

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Force will not be used in the collection of samples except as authorized by court order and only with the approval of a supervisor. Methods to consider when seeking voluntary compliance include contacting:

(a) The person's parole or probation officer when applicable.

(b) The prosecuting attorney to seek additional charges against the person for failure to comply or to otherwise bring the refusal before a judge.

(c) The judge at the person's next court appearance.

(d) The person's attorney.

(e) A chaplain.

(f) Another custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.

(g) A supervisor who may be able to authorize custodial disciplinary actions to compel compliance, if any are available.

The supervisor shall review and approve any plan to use force and be present to document the process.

319.5.1 VIDEO RECORDING

A video recording should be made anytime force is used to obtain a biological sample. The recording should document all staff participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the investigation file, if any, or otherwise retained in accordance with the department’s records retention schedule (15 CCR 1059).

319.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

319.6.1 DOCUMENTATION RELATED TO FORCE

The xxxxx or the on-duty authorized designee shall prepare prior written authorization for the use of any force (15 CCR 1059). The written authorization shall include information that the subject was asked to provide the requisite specimen, sample, or impression and refused, as well as the related court order authorizing the force.

319.6.2 BLOOD SAMPLES

A blood sample should only be obtained under this policy when:

(a) The California DOJ requests a blood sample and the subject consents, or

(b) A court orders a blood sample following a refusal.

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298(a); Penal Code § 298(b)(2)).

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319.6.3 LITIGATION

The Chief Investigator or authorized designee should notify the California DOJ's DNA Legal Unit in the event this bureau is named in a lawsuit involving the DNA Data Bank sample collection, sample use or any aspect of the state's DNA Data Bank Program.

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Child and Dependent Adult Safety

320.1 PURPOSE AND SCOPE

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

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

320.2 POLICY

It is the policy of the Bureau of Investigation to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Kern County District Attorney's Office Bureau of Investigation will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

320.3 PROCEDURES DURING AN ARREST

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

(a) Inquire about and confirm the location of any children or dependent adults.

(b) Look for evidence of children and dependent adults. Investigators should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.

(c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

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

Whenever it is safe to do so, investigators should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the investigator at the

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scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

320.3.1 AFTER AN ARREST

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

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

(a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.

  1. Investigators should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.

(b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), investigators should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.

  1. Except when a court order exists limiting contact, the investigator should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.

(c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.

(d) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.

(e) Notify the division Lieutenant of the disposition of children or dependent adults.

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

320.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any

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child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

320.3.3 REPORTING

(a) For all arrests where children are present or living in the household, the reporting member will document the following information:

1. Name
2. Sex
3. Age
4. Special needs (e.g., medical, mental health)
5. How, where and with whom or which agency the child was placed
6. Identities and contact information for other potential caregivers
7. Notifications made to other adults (e.g., schools, relatives)

(b) For all arrests where dependent adults are present or living in the household, the reporting member will document the following information:

1. Name
2. Sex
3. Age
4. Whether he/she reasonably appears able to care for him/herself
5. Disposition or placement information if he/she is unable to care for him/herself

320.3.4 SUPPORT AND COUNSELING REFERRAL

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

320.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling investigator should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

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

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

320.5 TRAINING

The Administrative Lieutenant is responsible to ensure that all personnel of this bureau who may be involved in arrests affecting children or dependent adults receive approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

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Service Animals

321.1 PURPOSE AND SCOPE

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

321.2 POLICY

It is the policy of the Kern 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.

321.3 DEFINITIONS

Definitions related to this policy include:

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

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler’s control, the facility can accommodate the horse’s type, size and weight, and the horse’s presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR35.136(i)).

321.4 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 are not pets and may be trained by an individual or organization to assist people with disabilities.

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

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

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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.

321.5 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 Bureau of Investigation affords to all members of the public.

321.5.1 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.

321.5.2 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.

321.5.3 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 service to

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an individual with disabilities. Members of the Bureau are expected to provide all services as are reasonably available to an individual with a disability, with or without a service animal.

321.5.4 COMPLAINTS

When handling calls of a complaint regarding a service animal, members of the Bureau should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, 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).

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Off-Duty Law Enforcement Actions

322.1 PURPOSE AND SCOPE

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

322.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged. Investigators should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Investigators are not expected to place themselves in unreasonable peril. However, any sworn member of the 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 as a last resort.

322.3 FIREARMS

Investigators of the Bureau are encouraged to 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 identification.

Investigators should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any investigator who has consumed an amount of an alcoholic beverage or taken any drugs or medications or any combination thereof that would tend to adversely affect the investigator’s senses or judgment.

322.4 DECISION TO INTERVENE

There is no legal requirement for off-duty investigators to take law enforcement action. However, should investigators decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

(a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.

(b) The inability to communicate with responding units.

(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 officers to arrive, and gather as much accurate intelligence as possible instead of immediately intervening.

322.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary the investigator should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty investigator is on-scene and should be provided a description of the investigator if possible.

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

322.4.2 INCIDENTS OF PERSONAL INTEREST

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

322.4.3 CIVILIAN RESPONSIBILITIES

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

322.5 REPORTING

Any off-duty investigator who engages in any law enforcement activity, regardless of jurisdiction, shall notify the On-Call Lieutenant as soon as practicable. The Lieutenant shall determine whether a report should be filed by the employee.

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

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Custodial Searches

323.1 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 Kern County District Attorney's Office Bureau of Investigation facility. Such items can pose a serious risk to the safety and security of bureau members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

323.1.1 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.

323.2 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.

323.3 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.

323.4 STRIP SEARCHES

No individual in temporary custody at any Kern County District Attorney's Office Bureau of Investigation facility shall be subjected to a strip search unless there is reasonable suspicion

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based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

(a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

(b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.

1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.

(c) Custody history (e.g., past possession of contraband while in custody, assaults on bureau members, escape attempts).

(d) The individual’s actions or demeanor.

(e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual’s genital status. If the individual’s genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

323.4.1 STRIP SEARCH PROCEDURES

Strip searches at Kern County District Attorney's Office Bureau of Investigation facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

(a) Written authorization from the xxxxx shall be obtained prior to the strip search.

(b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.

(c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.

(d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.

(e) Members conducting a strip search shall not touch the breasts, buttocks, or genitalia of the individual being searched.

(f) The primary member conducting the search shall prepare a written report to include:

1. The facts that led to the decision to perform a strip search.

2. The reasons less intrusive methods of searching were not used or were insufficient.

3. The written authorization for the search, obtained from the xxxxx.

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4. The name of the individual who was searched.
5. The name and sex of the members who conducted the search.
6. The name, sex, and role of any person present during the search.
7. The time and date of the search.
8. The place at which the search was conducted.
9. A list of the items, if any, that were recovered.
10. The facts upon which the member based the member's belief that the individual was concealing a weapon or contraband.

(g) No member should view an individual's private underclothing, buttocks, genitalia, or breasts while that individual is showering, performing bodily functions, or changing clothes, unless the individual would otherwise qualify for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect the individual's privacy and dignity.

(h) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the xxxxx shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.

(i) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name, and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

323.4.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with a Lieutenant's authorization and only in exceptional circumstances, such as when:

(a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.

(b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the Lieutenant's authorization does not need to be in writing.

323.5 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

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(a) No individual shall be subjected to a physical body cavity search without written approval of a Lieutenant and only upon a search warrant. A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).

(b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search.

(c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary bureau members needed to maintain the safety and security of the medical personnel shall be present.

(d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.

(e) All such searches shall be documented, including:

1. The facts that led to the decision to perform a physical body cavity search of the individual.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The Lieutenant’s approval.
4. A copy of the search warrant.
5. The time, date and location of the search.
6. The medical personnel present.
7. The names, sex and roles of any bureau members present.
8. Any contraband or weapons discovered by the search.

(f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual’s authorized representative.

323.6 TRAINING

The Administrative Lieutenant shall ensure members have training that includes (28 CFR 115.115):

(a) Conducting searches of cross-gender individuals.

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(b) Conducting searches of transgender and intersex individuals.

(c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

323.7 BODY SCANNER SEARCH

If a body scanner is available, a body scan search should be performed on all persons in custody upon entering the secure booking area of the facility. Members (Penal Code § 4030):

(a) Within sight of the visual display of a body scanner that is depicting the body during a scan shall be of the same sex as the person being scanned, except for physicians or licensed medical personnel.

(b) Should ask persons in custody if they are pregnant prior to a body scan and should not knowingly use a body scanner on a pregnant person.

323.8 GENDER IDENTITY OR EXPRESSION CONSIDERATIONS

If an individual who is subject to a strip search or physical body cavity search has a gender identity or expression that differs from their sex assigned at birth, the search should be conducted by members of the same gender identity or expression as the individual, unless the individual requests otherwise.

323.9 JUVENILES

No juvenile should be subjected to a strip search or a physical body cavity search at the Bureau.

The Chief Investigator or the authorized designee should establish procedures for the following:

(a) Safely transporting a juvenile who is suspected of concealing a weapon or contraband, or who may be experiencing a medical issue related to such concealment, to a medical facility or juvenile detention facility as appropriate in the given circumstances.

1. Procedures should include keeping a juvenile suspected of concealing a weapon under constant and direct supervision until custody is transferred to the receiving facility.

(b) Providing investigators with information identifying appropriate medical and juvenile detention facilities to which a juvenile should be transported for a strip or body cavity search.

Nothing in this section is intended to prevent an investigator from rendering medical aid to a juvenile in emergency circumstances (see the Medical Aid and Response Policy for additional guidance).

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Canines

324.1 POLICY

The Kern County District Attorney's Office Bureau of Investigation does not possess or directly deploy canines. It is the policy of the Bureau to request assistance from allied agencies for the use of canines in the furtherence of investigative services.

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Bureau of Investigation Use of Social Media

325.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Bureau is consistent with the bureau 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).

325.1.1 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 department website or social networking services

325.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation 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.

325.3 AUTHORIZED USERS

Only members authorized by the Chief Investigator or the authorized designee may utilize social media on behalf of the Bureau. Authorized members shall use only bureau-approved equipment during the normal course of duties to post and monitor bureau-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief Investigator may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over bureau social media by members who are not authorized to post should be made through the member’s chain of command.

325.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the department mission and conforms to all department policies regarding the release of information may be posted.

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Examples of appropriate content include:

(a) Announcements.

(b) Tips and information related to crime prevention.

(c) Investigative requests for information.

(d) Requests that ask the community to engage in projects that are relevant to the department mission

(e) Press releases.

(f) Recruitment of personnel.

325.5 PROHIBITED CONTENT

Content that is prohibited from posting includes, but is not limited to:

(a) Content that is abusive, discriminatory, inflammatory or sexually explicit.

(b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.

(c) Any information that could compromise an ongoing investigation.

(d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Kern County District Attorney's Office Bureau of Investigation or its members.

(e) Any information that could compromise the safety and security of department operations, members of the Department, victims, suspects or the public.

(f) Any content posted for personal use.

(g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on this department’s social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

325.5.1 PUBLIC POSTING PROHIBITED

Department social media sites shall be designed and maintained to prevent posting of content by the public.

The Department may provide a method for members of the public to contact department members directly.

325.6 MONITORING CONTENT

The Chief Investigator will appoint a supervisor to review, at least annually, the use of department social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

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325.7 RETENTION OF RECORDS

The Administration Lieutenant should establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

325.8 TRAINING

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on department sites.

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Gun Violence Restraining Orders

326.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning and serving gun violence restraining orders and accounting for the firearms obtained pursuant to those orders (Penal Code § 18108).

326.1.1 DEFINITIONS

Definitions related to this policy include:

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

326.2 POLICY

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

326.3 GUN VIOLENCE RESTRAINING ORDER COORDINATOR

The Chief Investigator will appoint a gun violence restraining order coordinator. The responsibilities of the coordinator include:

(a) Developing and maintaining procedures for the filing of a petition for an order or a renewal of an order by bureau members, also including procedures for requesting and serving (Penal Code § 18108):

1. A temporary emergency gun violence restraining order.
2. An ex parte gun violence restraining order.
3. A gun violence restraining order issued after notice and hearing.

(b) Developing and maintaining factors to consider when assessing the need to seek an order, including:

1. Whether threats have been made, and if so, whether the threats are credible and specific.
2. Whether the potential victim is within close proximity.
3. Whether the person has expressed suicidal tendencies.
4. Whether the person has access to firearms.
5. The criminal history of the person, in particular any history of criminal violence, including whether the person is currently on parole, probation, or monitored release.
6. The mental health history of the person, in particular whether the person has any history of mental illness or has ever been detained for being a danger to themselves or others.

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7. Any upcoming holidays, anniversaries, or other dates of significance that may serve as a trigger for the person, such as the death of a family member.
8. Whether the person has any history of drug or alcohol abuse.

(c) Developing and maintaining procedures for the receipt and service of orders consistent with the requirements of Penal Code § 18115; Penal Code § 18120; Penal Code § 18135; Penal Code § 18140; and Penal Code § 18160. Procedures should include:

1. Evaluation of an order to determine appropriate service and necessary precautions (see the Warrant Service Policy and the Operations Planning and Deconfliction Policy).
2. Forwarding orders to the Records Manager for recording in appropriate databases and required notice to the court, as applicable.
3. Preparing or obtaining a search warrant prior to attempting service of an order, when appropriate (Penal Code § 18108).
4. Seizure procedures of firearms and ammunition at the time of issuance of a temporary emergency gun violence restraining order.
5. Verification procedures for the removal of firearms and ammunition from the subject of a gun violence restraining order.

(d) Coordinating with the Administrative Lieutenant to provide investigators who may be involved in petitioning for or serving orders with training on such orders. Training should include determining when a petition is appropriate, the process for seeking an order, and the service of such orders.

(e) Reviewing each petition and any associated court documents for an order prepared by members, for compliance with this policy, bureau procedures, and state law.

(f) Developing and maintaining procedures for members to accept voluntarily surrendered prohibited items at times other than when an order is being served by the Bureau.

1. Procedures should include preparing and providing a receipt identifying all prohibited items to the person surrendering the items.

(g) Coordinating review of notices of court hearings and providing notice to the appropriate investigator of the hearing date and the responsibility to appear (Penal Code § 18108).

326.4 GUN VIOLENCE RESTRAINING ORDERS

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

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

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or inadequate for the circumstances (Penal Code § 18125; Penal Code § 18150; Penal Code § 18175).

If it is not practical under the circumstances to submit a written petition, an investigator may submit the petition electronically or orally request a temporary order (Penal Code § 18122; Penal Code § 18140).

326.4.1 ADDITIONAL CONSIDERATIONS

Investigators should also consider requesting permission to petition the court for a gun violence restraining order (Penal Code § 18108):

(a) When responding to a domestic disturbance where the residence is associated with a firearm registration or record.

(b) When responding to any call or incident when a firearm is present or when one of the involved parties owns or possesses a firearm.

(c) During a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions if that person owns or possesses a firearm.

Investigators should consider obtaining a mental health evaluation if the encounter involves a situation where there is a reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themselves or another person by having custody or control of a firearm (see the Mental Illness Commitments Policy) (Penal Code § 18108).

326.5 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS

An investigator serving any gun violence restraining order shall:

(a) Verbally ask the subject of the order if he/she has any firearm, ammunition, or magazine in his/her possession or under his/her custody or control (Penal Code § 18160).

(b) Request that any firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items (Penal Code § 18120).

(c) Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (Penal Code § 18250).

(d) Inform the restrained person of any scheduled hearing regarding the order (Penal Code § 18160).

(e) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (Penal Code § 18115).

(f) As soon as practicable, but by the end of his/her shift, submit proof of service to the CLETS clerk for for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

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

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

326.5.1 TEMPORARY EMERGENCY GUN VIOLENCE RESTRAINING ORDERS
An investigator requesting a temporary emergency gun violence restraining order shall (Penal Code § 18140):

(a) For oral requests, sign a declaration under penalty of perjury reciting the oral statements provided to the judicial officer and memorialize the order of the court on the form approved by the Judicial Council.

(b) Serve the order on the restrained person if the person can be reasonably located.

(c) Forward a copy of the order to the Records Manager for filing with the court and appropriate databases.

326.6 SEARCH WARRANTS

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

(a) The investigator serving the warrant shall take custody of any firearm or ammunition that is controlled, possessed or owned by the person who is the subject of the gun violence restraining order, including any discovered pursuant to the warrant, a consensual search or other lawful search.

(b) If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:

1. The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access.

2. There is no evidence that the owner unlawfully possesses the firearm or ammunition.

(c) If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the investigator shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner’s presence.

326.7 RECORDS MANAGER RESPONSIBILITIES

The Records Manager is responsible for ensuring:

(a) Proof of service of any gun violence restraining order served by an investigator or received from the clerk of the court is entered in the computer database system for protective and restraining orders maintained by the Department of Justice within one business day of service if served by an investigator, or within one business day of receipt of proof of service if served by a person other than a law enforcement officer (Penal Code § 18115).

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(b) Temporary orders are entered into the California Restraining and Protective Order System (Penal Code § 18140).

(c) Copies of temporary orders are filed with the court as soon as practicable, but no later than three court days, after issuance (Penal Code § 18140).

(d) Copies of receipts of surrendered firearms or ammunition issued by other agencies for gun violence restraining orders issued by the Bureau are properly maintained (Penal Code § 18120).

(e) Any relinquishment of firearm rights form received from the court is entered into the California Restraining and Protective Order System within one business day of receipt (Penal Code § 18115).

326.8 COURT-ORDERED FIREARMS AND AMMUNITION SURRENDERS

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

(a) Record the individual’s name, address and telephone number.

(b) Record the serial number of the firearm.

(c) Prepare an incident report and property report.

(d) Provide a property receipt to the individual who surrendered the firearms and ammunition.

(e) Package and submit the firearms and ammunition in accordance with the Property and Evidence Policy.

326.9 RELEASE OF FIREARMS AND AMMUNITION

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

326.10 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS

The Investigative Bureau supervisor is responsible for the review of a gun violence restraining order obtained by the Bureau to determine if renewal should be requested within the time prescribed by law (Penal Code § 18190).

326.11 POLICY AVAILABILITY

The Chief Investigator or the authorized designee shall be responsible for making this policy available to the public upon request (Penal Code § 18108).

326.12 TRAINING

The Administrative Lieutenant should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

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Generative Artificial Intelligence Use

327.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for bureau use of generative artificial intelligence (GenAI). This policy does not apply to artificial intelligence that is integrated into facial recognition applications, voice recognition applications, biometric access controls, or software that redacts documents or video or similar applications.

Additional guidelines for the use of bureau information technology resources are found in the Information Technology Use Policy.

327.1.1 DEFINITIONS

Definitions related to this policy include:

Generative artificial intelligence (GenAI) - A type of artificial intelligence that is algorithmically trained on one or more large data sets and designed to generate new and unique data (e.g., text, pictures, video) in response to a prompt (generally questions, instructions, images, or video) input by the user.

327.2 POLICY

The use of GenAI systems carries unique benefits within a law enforcement agency, providing ways to increase operational efficiency, enhance bureau procedures, and improve the overall effectiveness of the Kern County District Attorney's Office Bureau of Investigation.

However, the prompts input into GenAI systems can present risks to both individuals and law enforcement agencies by making accessible to the public information such as bureau tactics, investigative and training techniques, confidential information (e.g., confidential informants, protected information), active investigations, and security procedures. In addition, without safeguards in place, GenAI can produce unintended discriminatory or biased output as well as content that is inaccurate, misleading, or copyrighted.

It is the policy of the Bureau to develop, implement, and use GenAI ethically and responsibly in a way that minimizes potential risk and harm in accordance with the guidelines set forth below.

Any function carried out by a member of the Bureau using GenAI is subject to the same laws, rules, and policies as if carried out without the use of GenAI. The use of GenAI does not permit any law, rule, or policy to be bypassed or ignored.

327.3 RESPONSIBILITIES

327.3.1 CHIEF INVESTIGATOR

The Chief Investigator or an authorized designee shall approve all GenAI systems, their acceptable uses, and their authorized user groups prior to the use, implementation, or development for any bureau functions.

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327.3.2 AI COORDINATOR

The Chief Investigator or the authorized designee shall appoint an AI coordinator. The AI coordinator shall report to the Administration Division Chief or the authorized designee.

The responsibilities of the AI coordinator include but are not limited to:

(a) Evaluating potential GenAI systems and recommending those GenAI systems that appear to be appropriate and trustworthy to the Chief Investigator or the authorized designee. The trustworthiness of GenAI systems should be evaluated by balancing the following characteristics:

1. Validity and reliability - The system's apparent ability to meet the intended purpose and fulfill the needs of the Bureau consistently over time.
2. Safety - Any apparent risk to human life, health, property, or the environment that could result from the bureau's use of the system.
3. Security and resiliency - The system's capability to prevent unauthorized access and misuse and its ability to return to normal function should misuse occur.
4. Accountability and transparency - The ability to track and measure the system's use and activity through histories, audit logs, and other processes to provide insight about the system and identify potential sources of error, bias, or vulnerability.
5. Explainability and interpretability - The ability of the user to understand the purpose and impact of the system, how and why the system reached the resulting output, and what the output means for the user.
6. Privacy - The ability of the system to protect confidentiality and meet applicable privacy standards for the types of data intended to be input into the system (e.g., state privacy laws, Criminal Justice Information Services (CJIS), Health Insurance Portability and Accountability Act (HIPAA)).
7. Fairness - The ability of the system to operate in a way that avoids or minimizes bias and discrimination.

(b) Ensuring appropriate contractual safeguards are in place to manage third-party use of bureau data and to restrict the use of input in AI training data sets. If the input of protected information is necessary for the proper use of the GenAI system, an information-exchange agreement in compliance with applicable rules and standards (e.g., CJIS requirements) should be used to outline the roles, responsibilities, and data ownership between the Bureau and third-party vendor.

(c) Coordinating with others within the Bureau and County, such as the information technology or legal departments, as appropriate to ensure GenAI systems are procured, implemented, and used appropriately.

(d) Maintaining a list or inventory of bureau-approved GenAI systems and, when appropriate for bureau transparency, making the list or inventory available to the public.

(e) Developing and maintaining appropriate procedures related to the use of GenAI systems, including procedures for editing and fact-checking output.

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(f) Ensuring any public-facing GenAI systems notify the user that GenAI is being used.

(g) Developing and updating training for the authorized users of each bureau-approved GenAI system.

(h) Ensuring access to bureau GenAI systems is limited to authorized users and establishing requirements for user credentials such as two-factor authentication and appropriate password parameters.

(i) Conducting audits at reasonable time intervals for each of the GenAI systems utilized by the Bureau to evaluate the performance and effectiveness of each approved system and to determine if it continues to meet the bureau's needs and expectations of trustworthiness. The coordinator should arrange for audits to be conducted by an external source, as needed.

(j) Ensuring each GenAI system is updated and undergoes additional training as reasonably appears necessary in an effort to avoid the use of outdated information or technologies.

(k) Keeping abreast of advancements in GenAI and any GenAI-related legal developments.

(l) Reviewing this policy and bureau practices and proposing updates as needed to the Chief Investigator.

(m) Developing procedures in coordination with the *Brady* information coordinator and the Records Manager for the compilation and potential release of any discovery or records related to the use of GenAI systems consistent with *Brady* and the California Public Records Act.

327.4 USE OF GENERATIVE AI

The use of bureau GenAI systems by bureau members shall be limited to official work-related purposes, and members shall only access and use GenAI systems for which they have been authorized and received proper training.

Members shall use AI-generated content as an informational tool and not as a substitution for human judgment or decision-making. Members should not represent AI-generated content as their own original work.

AI-generated content should be considered draft material only and shall be thoroughly reviewed prior to use. Before relying on AI-generated content, members should:

(a) Obtain independent sources for information provided by GenAI and take reasonable steps to verify that the facts and sources provided by GenAI are correct and reliable.

(b) Review prompts and output for indications of bias and discrimination and take steps to mitigate its inclusion when reasonably practicable (see the Bias-Based Policing Policy).

(c) Include a statement in the final document or work product that GenAI was used to aid in its production.

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327.4.1 PRIVACY CONSIDERATIONS

Information not otherwise available to the public, including data reasonably likely to compromise an investigation, reveal confidential law enforcement techniques, training, or procedures, or risk the safety of any individual if it were to become publicly accessible, should not be input into a GenAI system unless contractual safeguards are in place to prevent such information from becoming publicly accessible. Members should instead use generic unidentifiable inputs, such as "suspect" or "victim," and hypothetical scenarios whenever possible.

Protected information should only be input into GenAI systems that have been approved for such use and comply with applicable privacy laws and standards (see the Protected Information Policy).

327.5 PROHIBITED USE

Members shall not use GenAI systems to rationalize a law enforcement decision, or as the sole basis of research, interpretation, or analysis of the law or facts related to a law enforcement contact or investigation.

Members shall not create user accounts in their official capacity or input work-related data (including information learned solely in the scope of their employment) into publicly available GenAI systems unless the system has been approved by the Chief Investigator or the authorized designee for the intended use.

327.6 TRAINING

The AI coordinator should ensure that all members authorized to use GenAI have received appropriate initial training that is suitable for their role and responsibilities prior to their use of GenAI and receive periodic refresher training. Training should include but is not limited to the following:

(a) A review of this policy

(b) The need for human oversight of GenAI outputs

(c) The interpretation, review, and verification of GenAI output

(d) Checking GenAI output for bias or protected information

(e) Ethical use of GenAI technology

(f) Data security and privacy concerns

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Chapter 4 - Field Operations

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Bias-Based Policing

400.1 PURPOSE AND SCOPE

This policy provides guidance to bureau members that affirms the Kern County District Attorney's Office Bureau of Investigation's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the 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 or improper profiling - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin (including limited English proficiency), 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). This includes explicit and implicit biases (i.e., conscious and unconscious beliefs or attitudes towards certain groups).

400.2 POLICY

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

400.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit 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.

400.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

(a) In compiling personal information about a person’s religious belief, practice, affiliation, national origin or ethnicity.

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(b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

400.4 MEMBER RESPONSIBILITIES

Every member of this bureau shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

400.4.1 REASON FOR CONTACT

Investigators contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved investigator should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any investigator to document a contact that would not otherwise require reporting.

400.4.2 DISCLOSURE AND DOCUMENTATION OF TRAFFIC OR PEDESTRIAN STOP

An investigator conducting a traffic or pedestrian stop shall state the reason for the stop prior to questioning the individual related to a criminal investigation or traffic violation unless the investigator reasonably believes that withholding the reason for the stop is necessary to protect life or property from imminent threat, including but not limited to cases of terrorism or kidnapping (Vehicle Code § 2806.5).

Investigators shall document the reason for the stop on any citation or report (Vehicle Code § 2806.5).

400.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

(a) Supervisors should discuss any issues with the involved investigator and his/her supervisor in a timely manner.

1. Supervisors should document these discussions, in the prescribed manner.

(b) Supervisors should periodically review portable audio/video recordings and any other available resource used to document contact between investigators and the public to ensure compliance with the policy.

(a) Supervisors should document these periodic reviews.

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(b) Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.

(c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.

(d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this bureau who discloses information concerning bias-based policing.

400.6 ADMINISTRATION

Each year, the Administrative Lieutenant should review the efforts of the Bureau to provide fair and objective policing and submit an annual report, including public concerns and complaints, to the Chief Investigator.

The annual report should not contain any identifying information about any specific complaint, member of the public or investigators. It should be reviewed by the Chief Investigator to identify any changes in training or operations that should be made to improve service.

Supervisors should review the annual report and discuss the results with those they are assigned to supervise.

400.7 TRAINING

Training on fair and objective policing and review of this policy shall be conducted annually and include:

(a) Explicit and implicit biases.

(b) Avoiding improper profiling.

400.7.1 ADDITIONAL STATE REQUIREMENTS

Training should be conducted as directed by the Training Unit.

(a) All sworn members of this bureau will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.

(b) Pending participation in such POST-approved training and at all times, all members of this bureau are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.

(c) Each sworn member of this bureau who received initial bias-based policing training will thereafter be required to complete an approved POST 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)).

400.8 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Administrative Lieutenant or the authorized designee shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against investigators is collected and provided to the Records Manager for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Records Section Policy.

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Supervisors should ensure that data stop reports are provided to the Records Manager for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

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Crime and Disaster Scene Integrity

401.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

401.2 EXECUTION OF HEALTH ORDERS

Any sworn member of this department is authorized to enforce all orders of the local health officer that have been issued for the purpose of preventing the spread of any contagious, infectious or communicable disease (Health and Safety Code § 120155).

401.3 SEARCHES

Investigators arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once investigators are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Investigators should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

401.3.1 CONSENT

When possible, investigators should seek written consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

401.4 POLICY

It is the policy of the Kern County District Attorney's Office Bureau of Investigation to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

401.5 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder’s function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

(a) Broadcast emergency information, including requests for additional assistance and resources.

(b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.

(c) Locate or identify suspects and determine whether dangerous suspects are still within the area.

(d) Provide first aid to injured parties if it can be done safely.

(e) Evacuate the location safely as required or appropriate.

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(f) Secure the inner perimeter.

(g) Protect items of apparent evidentiary value.

(h) Secure an outer perimeter.

(i) Identify potential witnesses.

(j) Start a chronological log noting critical times and personnel allowed access.

401.6 SCENE RESPONSIBILITY

The first investigator at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Investigators shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an investigator has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the investigator shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person.

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Cite and Release Policy

402.1 PURPOSE AND SCOPE

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

402.2 POLICY

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

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

402.3 RELEASE BY CITATION

Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private person's arrest, shall be released from custody on a citation (Penal Code § 853.6).

The citing investigator shall, at the time the defendant signs the notice to appear, call attention to the time and place for appearance and take any other steps they deem necessary to ensure that the defendant understands their written promise to appear.

402.3.1 FIELD CITATIONS

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

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

402.3.2 RELEASE AFTER BOOKING

In some cases it may not be feasible or desirable to release a person in the field. The person should instead be released on citation after booking at the jail.

402.4 NON-RELEASE

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402.4.1 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

(a) Misdemeanor domestic battery (Penal Code § 243(e)(1))

(b) Felony domestic battery (Penal Code § 273.5)

(c) Serious or violent felonies (Penal Code § 1270.1(a)(1))

(d) Felony intimidation of witnesses and victims (Penal Code § 136.1)

(e) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)

(f) Stalking (Penal Code § 646.9)

(g) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

402.4.2 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The xxxxx may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Bureau and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

(a) The person arrested is so intoxicated that they could be a danger to themselves or to others. Release may occur as soon as this condition no longer exists.

(b) The person arrested requires medical examination or medical care or is otherwise unable to care for their own safety.

(c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.

(d) There are one or more outstanding arrest warrants for the person (see Misdemeanor Warrants elsewhere in this policy).

(e) The person could not provide satisfactory evidence of personal identification.

    1. If a person released on citation does not have satisfactory identification in their possession, a right thumbprint or fingerprint should be obtained on the citation form.

(f) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.

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(g) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.

(h) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.

(i) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented. Reasons may include:

1. Previous failure to appear is on record
2. The person lacks ties to the area, such as a residence, job, or family
3. Unusual circumstances lead the investigator responsible for the release of arrested persons to conclude that the suspect should be held for further investigation

(j) A previous conviction, citation, or arrest for misdemeanor or felony retail theft from a store in the previous six months.

(k) There is probable cause to believe that the person arrested is guilty of committing organized retail theft.

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the xxxxx for approval and included with the case file in the Records Section.

402.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, unless any of the following conditions exist:

(a) The misdemeanor cited in the warrant involves violence.

(b) The misdemeanor cited in the warrant involves a firearm.

(c) The misdemeanor cited in the warrant involves resisting arrest.

(d) The misdemeanor cited in the warrant involves giving false information to a peace investigator.

(e) The person arrested is a danger to themselves or others due to intoxication or being under the influence of drugs or narcotics.

(f) The person requires medical examination or medical care or was otherwise unable to care for their own safety.

(g) The person has other ineligible charges pending against themselves.

(h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.

(i) The person refuses to sign the notice to appear.

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(j) The person cannot provide satisfactory evidence of personal identification.

(k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear.

Release under this section shall be done in accordance with the provisions of this policy.

402.6 REQUESTING CASE NUMBERS

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

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Foreign Diplomatic and Consular Representatives

403.1 PURPOSE AND SCOPE

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

403.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

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

403.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

(a) Notify a supervisor.

(b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person’s status.

(c) Request the person’s identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.

(d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.

(e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating “US” as the state.

403.4 ENFORCEMENT

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

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(a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.

(b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.

(c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.

1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.

(d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:

1. Diplomatic-level staff of missions to international organizations and recognized family members
2. Diplomatic agents and recognized family members
3. Members of administrative and technical staff of a diplomatic mission and recognized family members
4. Career consular officers, unless the person is the subject of a felony warrant

(e) The following persons may generally be detained and arrested:

1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
2. Support staff of missions to international organizations
3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
4. Honorary consular officers
5. Whenever an investigator arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the investigator shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the investigator shall begin the notification process.

403.5 DOCUMENTATION

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

403.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

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Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
Diplomatic Agent	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise.	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Int'l Org Staff (note (b))	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability
Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Support Staff of Missions to Int'l Orgs	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

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(a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.

(b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.

(c) A small number of senior officers are entitled to be treated identically to diplomatic agents.

(d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

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Immigration Violations

404.1 PURPOSE AND SCOPE

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

404.1.1 DEFINITIONS

The following definitions apply to this policy (Government Code § 7284.4):

Criminal immigration violation - Any federal criminal immigration violation that penalizes a person’s presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

Immigration enforcement - Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

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

404.2 POLICY

It is the policy of the Kern County District Attorney's Office Bureau of Investigation that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this bureau in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

404.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or California constitutions.

404.4 IMMIGRATION INQUIRIES PROHIBITED

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

404.4.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)

Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Government Code § 15160).

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Members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual's record (Government Code § 15160).

404.4.2 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES
Members shall not obtain, access, use, or otherwise disclose noncriminal history information maintained by the DMV for immigration enforcement (Vehicle Code § 1808.48).

404.5 DETENTIONS AND ARRESTS

An investigator shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An investigator who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC § 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under 8 USC § 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the investigator has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

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

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

404.5.1 SUPERVISOR RESPONSIBILITIES
When notified that an investigator has arrested an individual for violation of 8 USC § 1326(a) or under the authority of a judicial warrant, the supervisor should determine whether it is appropriate to:

(a) Transfer the person to federal authorities.

(b) Transfer the person to jail.

404.6 FEDERAL REQUESTS FOR ASSISTANCE

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from this bureau should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

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404.7 INFORMATION SHARING

No member of this bureau will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):

(a) Sending information to, or requesting or receiving such information from federal immigration officials

(b) Maintaining such information in bureau records

(c) Exchanging such information with any other federal, state, or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

404.7.1 IMMIGRATION DETAINERS

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

Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

(a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).

(b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state prison.

(c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

(d) The individual is a current registrant on the California Sex and Arson Registry.

(e) The individual is identified by the U.S. Department of Homeland Security’s Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

404.7.2 NOTICE TO INDIVIDUALS

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request along with information as to whether the Kern County District Attorney's Office Bureau of Investigation intends to comply with the request (Government Code § 7283.1).

If the Kern County District Attorney's Office Bureau of Investigation provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

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404.7.3 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Government Code § 7282.5; Government Code § 7284.6):

(a) Transfer is authorized by a judicial warrant or judicial probable cause determination.

(b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

(c) The individual is a current registrant on the California Sex and Arson Registry.

(d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

404.7.4 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Investigative Bureau supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code § 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Records Manager for required reporting to the DOJ (Government Code § 7284.6(c)(2) (see the Records Section Policy).

404.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigative Bureau supervisor assigned to oversee the handling of any related case. The Investigative Bureau supervisor should:

(a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.

(b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.

(c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.

1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.

2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). The certification shall be completed and not refused for the specified reasons in Penal Code § 679.10(k)(3).

3. Form I-914 Supplement B declaration shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking). The

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declaration shall be completed and not refused for completion for the specified reasons in Penal Code § 679.11(j)(3).

4. Forward the completed Form I-918 Supplement B certification or completed Form I-914 declaration B to the victim, family member, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) without requiring the victim to provide government-issued identification (Penal Code § 679.10; Penal Code § 679.11)

(d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

1. If Form I-918 Supplement B is not certified, a written explanation of denial shall be provided to the victim or authorized representative. The written denial shall include specific details of any reasonable requests for cooperation and a detailed description of how the victim refused to cooperate (Penal Code § 679.10).

(e) Inform the victim liaison of any requests and their status.

404.8.1 TIME FRAMES FOR COMPLETION

Investigators and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Investigators and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 30 days of a request from the victim, victim's family, or authorized representative related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within seven days of the first business day following the day the request was received.

404.8.2 POLICE REPORTS

Upon request, an investigator or supervisor should provide a victim or authorized representative with a copy of the report filed by the victim within seven days of the request (Penal Code § 679.10).

404.9 TRAINING

The Administrative Lieutenant should ensure that all appropriate members receive training on immigration issues.

Training should include:

(a) Identifying civil versus criminal immigration violations.

(b) Factors that may be considered in determining whether a criminal immigration violation has been committed.

(c) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).

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Portable Audio/Video Recorders

405.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this bureau while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Kern County District Attorney's Office Bureau of Investigation facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

405.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Bureau by accurately capturing contacts between members of the Bureau and the public.

405.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any bureau-issued device at any time, and any recording made while acting in an official capacity for this bureau, regardless of ownership of the device it was made on, shall remain the property of the Bureau. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

405.4 MEMBER RESPONSIBILITIES

Bureau members will be responsible for making sure that he/she is equipped with a portable recorder issued by the Bureau, and that the recorder is in good working order. If the recorder is not in working order or malfunctions at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable. Any member may carry an approved portable recorder at any time the member believes that such a device may be useful. Members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a portable recorder, the assigned member shall record his/her name, identification number and the current date and time at the beginning and the end of the period of use.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

405.4.1 SUPERVISOR RESPONSIBILITIES

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

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405.5 ACTIVATION OF THE PORTABLE RECORDER

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

(a) All enforcement and investigative interviews

(b) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

405.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the Bureau may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another bureau member without a court order unless lawfully authorized by the Chief Investigator or the authorized designee.

405.5.2 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person’s attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

405.6 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using bureau-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

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Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with bureau-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate bureau business purposes. All such recordings shall be retained at the Bureau.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the supervising Lieutenant. Any member who uses a personally owned recorder for bureau-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

405.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

(a) The recording contains evidence relevant to potential criminal, civil or administrative matters.

(b) A complainant, victim or witness has requested non-disclosure.

(c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.

(d) Disclosure may be an unreasonable violation of someone’s privacy.

(e) Medical or mental health information is contained.

(f) Disclosure may compromise an undercover officer or confidential informant.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

405.8 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member’s performance.

Recorded files may also be reviewed:

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(a) Upon approval by a supervisor, by any member of the Bureau who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.

(b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.

(c) By media personnel with permission of the Chief Investigator or the authorized designee.

(d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

(e) By the District Attorney, Assistant District Attorney, and Deputy District Attorneys in the course and scope of their duties in evaluating cases for possible filing, or for evidentiary use of such recordings in the prosecution of cases.

All recordings should be reviewed by the Administrative Lieutenant prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

405.9 COORDINATOR

The Chief Investigator or the authorized designee shall appoint a member of the Bureau to coordinate the use and maintenance of portable audio/video recording devices and the storage of recordings, including (Penal Code § 832.18):

(a) Establishing a system for downloading, storing and security of recordings.

(b) Designating persons responsible for downloading recorded data.

(c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.

(d) Establishing a system for tagging and categorizing data according to the type of incident captured.

(e) Establishing a system to prevent tampering, deleting and copying recordings and ensure chain of custody integrity.

(f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.

(g) Maintaining logs of access and deletions of recordings.

405.10 RETENTION OF RECORDINGS

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

(a) Incidents involving use of force by an investigator

(b) Officer-involved shootings

(c) Incidents that lead to the detention or arrest of an individual

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(d) Recordings relevant to a formal or informal complaint against an investigator or the Kern County District Attorney's Office Bureau of Investigation

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

All other recordings should be retained for a period consistent with the requirements of the organization’s records retention schedule but in no event for a period less than 180 days.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

405.10.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with District Attorney Office and County Policy.

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Public Recording of Law Enforcement Activity

406.1 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 the Bureau of Investigation. In addition, this policy provides guidelines for situations where the recordings may be evidence.

406.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation recognizes the right of persons to lawfully record members of the Bureau of Investigation who are performing their official duties. Members of the Bureau of Investigation 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.

406.3 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.

406.4 INVESTIGATOR RESPONSE

Investigators should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, investigators should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

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Whenever practicable, investigators or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an investigator could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, investigators shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

406.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the investigator and:

(a) Request any additional assistance as needed to ensure a safe environment.

(b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.

(c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.

(d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.

(e) Explain alternatives for individuals who wish to express concern about the conduct of Bureau members, such as how and where to file a complaint.

406.6 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

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be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

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

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Vehicle Towing and Release

407.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Kern County District Attorney's Office Bureau of Investigation. Nothing in this policy shall require the Bureau to tow a vehicle.

407.2 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

407.2.1 VEHICLE STORAGE REPORT

Bureau members requesting towing, storage, or impound of a vehicle shall complete CHP Form 180 and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). The form shall be scanned and attached to the report as soon as practicable after the vehicle is stored.

407.2.1 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this bureau to provide reasonable safekeeping by storing the arrestee’s vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases the owner shall be informed that the Kern County District Attorney's Office will not be responsible for theft or damages.

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407.2.1 DRIVING A NON-COUNTY VEHICLE
Vehicles which have been towed by or at the direction of the Bureau should not be driven by bureau personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

407.2.1 INVESTIGATOR RESPONSIBILITY
The Investigator shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System via the Kern County Sheriff's Office (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the Investigator to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS computers. Notice shall be sent to all such individuals by mail as applicable and as provided in Vehicle Code § 22851.3(d), Vehicle Code § 22852(a), and Vehicle Code § 14602.6(a)(2). The notice shall include the following (Vehicle Code § 22852(b)):

(a) The name, address, and telephone number of this Bureau

(b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage

(c) The authority and purpose for the removal of the vehicle

(d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, in writing, or by telephone within 10 days of the date appearing on the notice

See attachment: DA Bureau Vehicle Impound Notification.rtf

407.3 TOWING SERVICES
When an Investigator needs a towing service, they should call the jurisdictional agency and request the next towing company from the jurisdictional agency's rotation of approved towing companies.

407.4 VEHICLE INVENTORY
All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in bureau custody, to provide for the safety of investigators, and to protect the District Attorney's Office against fraudulent claims of lost, stolen, or damaged property.

407.5 SECURITY OF VEHICLES AND PROPERTY
Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, investigators should make reasonable accommodations to permit

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a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

407.6 RELEASE OF VEHICLE

The Bureau will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

(a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3; Vehicle Code § 22850.5).

(b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit, and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3; Vehicle Code § 22850.5).

(c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his/her agent with proof of current registration, proof of a valid driver's license, and applicable fees paid prior to the end of the 30-day impoundment period under any of the following circumstances:

1. The vehicle was stolen.
2. If the driver reinstates his/her driver's license or acquires a license and provides proof of proper insurance.
3. Any other circumstance as set forth in Vehicle Code § 14602.6.
4. When there is no remaining community caretaking need to continue impound of the vehicle or the continued impound would not otherwise comply with the Fourth Amendment.

(d) An autonomous vehicle removed under authority of Vehicle Code § 22651(o)(1)(D) shall be released to the registered owner or person in control of the autonomous vehicle if the requirements of Vehicle Code § 22651(o)(3)(B) are met.

Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

See attachment: DA Bureau Vehicle Release Form.rtf

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407.7 TOWING FOR EXPIRED REGISTRATION

Prior to a member removing a vehicle that is found to have expired registration for more than six months, the member shall verify that no current registration exists with the Department of Motor Vehicles (DMV). If current registration exists with the DMV, the vehicle shall not be removed (Vehicle Code § 22651(o)(1)(A)).

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Medical Aid and Response

408.1 PURPOSE AND SCOPE

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

408.2 POLICY

It is the policy of the Bureau of Investigation that all investigators and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

408.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact the Communications Center and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide the Communications Center with information for relay to EMS personnel in order to enable an appropriate response, including:

(a) The location where EMS is needed.

(b) The nature of the incident.

(c) Any known scene hazards.

(d) Information on the person in need of EMS, such as:

1. Signs and symptoms as observed by the member.
2. Changes in apparent condition.
3. Number of patients, sex, and age, if known.
4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
5. Whether the person is showing signs or symptoms of 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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408.4 TRANSPORTING ILL AND INJURED PERSONS

Except in extraordinary cases where alternatives are not reasonably available, members should not transport persons who are unconscious, who have serious injuries or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Investigators should search any person who is in custody before releasing that person to EMS for transport.

An investigator should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes or when so directed by a supervisor.

Members should not provide emergency escort for medical transport or civilian vehicles.

408.5 PERSONS REFUSING EMS CARE

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an investigator shall not force that person to receive care or be transported. However, members may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the investigator should consider proceeding with a 72-hour treatment and evaluation commitment (5150 commitment) process in accordance with the Mental Illness Commitments Policy.

If an investigator believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The investigator may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the investigator will require the person to be transported to the nearest medical facility. In such cases, the investigator should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

408.6 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the investigator has reason to believe the arrestee is feigning injury or illness, the investigator should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the investigator should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

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Arrestees who appear to have a serious medical issue should be transported by ambulance. Investigators shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay an investigator from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the investigator's training.

408.7 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

408.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE

A member may use an AED only after receiving appropriate training from an approved public safety first aid and CPR course (22 CCR 100026.01; 22 CCR 100027.01; 22 CCR 100027.02).

408.8.1 AED USER RESPONSIBILITY

Members who are issued AEDs for use in bureau vehicles should check the AED at the beginning of the shift to ensure it is properly charged and functioning. Any AED that is not functioning properly will be taken out of service and given to the Administrative Lieutenant who is responsible for ensuring appropriate maintenance.

Fixed wall-mounted AED devices should be inspected by the Administrative Lieutenant on a routine basis consistent with the manufacturer's specifications.

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 Emergency Medical Services as soon as possible and request response by EMS.

408.8.2 AED REPORTING

Any member using an AED will complete an incident report detailing its use and submit it to the Administration Division Lieutenant where a copy of the report will be forwarded to the Kern County EMS Department.

408.8.3 AED TRAINING AND MAINTENANCE

The Administrative Lieutenant 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 100027.05; 22 CCR 100027.06; 22 CCR 100028.07).

The Administrative Lieutenant 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 100027.05).

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408.10 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Trained members may administer opioid overdose medication (Civil Code § 1714.22; Business and Professions Code § 4119.9).

408.10.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES

Members who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shift to ensure they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Administrative Lieutenant.

Any member who administers an opioid overdose medication should contact the Communications Center as soon as possible and request response by EMS.

408.10.2 OPIOID OVERDOSE MEDICATION REPORTING

Any member administering opioid overdose medication should detail its use in an appropriate report.

The Administrative Lieutenant will ensure that the Records Manager is provided enough information to meet applicable state reporting requirements.

408.10.3 OPIOID OVERDOSE MEDICATION TRAINING

The Administrative Lieutenant should ensure initial and refresher training is provided to members authorized to administer opioid overdose medication. Training should be coordinated with the local health department and comply with the requirements in 22 CCR 100027.03 and any applicable POST standards (Civil Code § 1714.22).

408.10.4 DESTRUCTION OF OPIOID OVERDOSE MEDICATION

The Administrative Lieutenant shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

408.10.5 OPIOID OVERDOSE MEDICATION RECORD MANAGEMENT

Records regarding acquisition and disposition of opioid overdose medications shall be maintained and retained in accordance with the established records retention schedule and at a minimum of three years from the date the record was created (Business and Professions Code § 4119.9).

408.10 FIRST AID TRAINING

The Administrative Lieutenant should ensure investigators receive initial first aid training within one year of employment and refresher training every two years thereafter (22 CCR 100026.03; 22 CCR 100027.06).

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Suspicious Activity Reporting

409.1 PURPOSE AND SCOPE

This policy provides guidelines for reporting and investigating suspicious and criminal activity.

409.1.1 DEFINITIONS

Definitions related to this policy include:

Involved party - An individual who has been observed engaging in suspicious activity, as defined in this policy, when no definitive criminal activity can be identified, thus precluding the person's identification as a suspect.

Suspicious activity - Any reported or observed activity that a member reasonably believes may have a nexus to any criminal act or attempted criminal act, or to foreign or domestic terrorism. 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 should not be considered as factors that create suspicion (although these factors may be used as specific suspect descriptions). Examples of suspicious activity may include but are not limited to:

- Suspected pre-operational surveillance or intelligence gathering (e.g., photographing security features, asking questions about sensitive security-related subjects).
- Tests of security measures and response to incidents (e.g., "dry run," creating false alarms, attempts to enter secure areas without authorization).
- Suspicious purchases (e.g., purchasing large quantities of otherwise legal items, such as fertilizer, that could be used to create an explosive or other dangerous device).
- An individual in possession of such things as a hoax explosive or dispersal device, sensitive materials (e.g., passwords, access codes, classified government information), or coded or ciphered literature or correspondence.

Suspicious Activity Report (SAR) - An incident report used to document suspicious activity.

409.2 POLICY

The Bureau of Investigation recognizes the need to protect the public from criminal conduct and acts of terrorism and shall lawfully collect, maintain and disseminate information regarding suspicious activities, while safeguarding civil liberties and privacy protections.

409.3 RESPONSIBILITIES

The Investigation Division Chief and authorized designees will manage SAR activities. Authorized designees should include supervisors who are responsible for bureau participation in criminal intelligence systems as outlined in the Criminal Organizations Policy.

The responsibilities of the Investigation Division Chief and authorized designees include, but are not limited to:

(a) Remaining familiar with those databases available to the Bureau that would facilitate the purpose of this policy.

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(b) Maintaining adequate training in the area of intelligence gathering to ensure no information is being maintained that would violate the law or civil rights of any individual.

(c) Ensuring a process is available that would allow members to report relevant information. The process should be designed to promote efficient and quick reporting, and should not be cumbersome, duplicative or complicated.

(d) Ensuring that members are made aware of the purpose and value of documenting information regarding suspicious activity, as well as the databases and other information resources that are available to the Bureau.

(e) Ensuring that SAR information is appropriately disseminated to members in accordance with their job responsibilities.

(f) Coordinating investigative follow-up, if appropriate.

(g) Coordinating with any appropriate agency or fusion center.

(h) Ensuring that, as resources are available, the Bureau conducts outreach that is designed to encourage members of the community to report suspicious activity and that outlines what they should look for and how they should report it (e.g., website, public service announcements).

409.4 REPORTING AND INVESTIGATION

Any bureau member receiving information regarding suspicious activity should take any necessary immediate and appropriate action, including a request for tactical response or immediate notification of specialized entities, when applicable. Any civilian member who receives such information should ensure that it is passed on to an investigator in a timely manner.

If the suspicious activity is not directly related to a reportable crime, the member should prepare a SAR and include information about involved parties and the circumstances of the incident. If, during any investigation, an investigator becomes aware of suspicious activity that is unrelated to the current investigation, the information should be documented separately in a SAR and not included in the original incident report. The report number of the original incident should be included in the SAR as a cross reference. A SAR should be processed as any other incident report.

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Crisis Intervention Incidents

410.1 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.

410.1.1 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.

410.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation 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.

410.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

(a) A known history of mental illness

(b) Threats of or attempted suicide

(c) Loss of memory

(d) Incoherence, disorientation or slow response

(e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas

(f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt

(g) Social withdrawal

(h) Manic or impulsive behavior, extreme agitation, lack of control

(i) Lack of fear

(j) Anxiety, aggression, rigidity, inflexibility or paranoia

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Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

410.4 COORDINATION WITH MENTAL HEALTH PROFESSIONALS

The Chief Investigator should designate an appropriate Lieutenant to collaborate with mental health professionals to develop an education and response protocol. It should include a list of community resources, to guide Bureau interaction with those who may be suffering from mental illness or who appear to be in a mental health crisis.

410.5 FIRST RESPONDERS

Safety is a priority. 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. Individuals may benefit from treatment as opposed to incarceration.

An investigator responding to a call involving a person in crisis should:

(a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.

(b) Request available backup investigators should consider requesting assistance from the agency with jurisdiction and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.

(c) Attempt to determine if weapons are present or available.

    1. Prior to making contact, and whenever possible and reasonable, conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System (CLETS) to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).

(d) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the investigator.

(e) Secure the scene and clear the immediate area as necessary.

(f) Employ tactics to preserve the safety of all participants.

(g) Determine the nature of any crime.

(h) Request a supervisor, as warranted.

(i) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.

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(j) If circumstances reasonably permit, consider and employ alternatives to force.

410.6 DE-ESCALATION

Investigators should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding investigators generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

410.7 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

(a) Attempt to secure appropriate and sufficient resources.

(b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).

(c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.

(d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.

(e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Chief Investigator.

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Evaluate whether a critical incident stress management debriefing for involved members is warranted.

410.8 INCIDENT REPORTING

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to Bureau reporting procedures or other official mental health or medical proceedings.

410.9 CIVILIAN INTERACTION WITH PEOPLE IN CRISIS

Civilian members may be required to interact with persons in crisis in an administrative capacity.

(a) Members should treat all individuals equally and with dignity and respect.

(b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.

(c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person’s behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an investigator should be promptly summoned to provide assistance.

410.10 EVALUATION

The Lieutenant designated to coordinate the crisis intervention strategy for the Bureau should ensure that a thorough review and analysis of the Bureau response to these incidents is conducted annually. The report will not include identifying information pertaining to any involved individuals, investigators or incidents and will be submitted to the Chief Investigator.

410.11 TRAINING

In coordination with the mental health community and appropriate stakeholders, the Bureau will develop and provide comprehensive education and training to all Bureau of Investigation members to enable them to effectively interact with persons in crisis.

This Bureau will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, welfare checks and crisis intervention (Penal Code § 11106.4; Penal Code § 13515.25; Penal Code § 13515.27; Penal Code § 13515.30).

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New Investigator Training Program

411.1 PURPOSE AND SCOPE

The new investigator training program is intended to provide a standardized program to facilitate the new investigator's transition from a traditional Municipal, State or County law enforcement agency to the duties of the Kern County District Attorney Investigator.

411.2 POLICY

It is the policy of the Kern County District Attorney’s Office Bureau of Investigation to assign all new investigators to a structured training program that is designed to prepare them to perform an investigative and trial preparation assignment while operating in a safe, productive and professional manner.

411.3 TRAINING RESPONSIBILITIES

The Administrative Division Lieutenant will have overall responsibility for the training of all new investigators. The Administrative Division Lieutenant will ensure that all training areas in the Training Manual are covered by the designated person(s) and schedule the new investigator for the POST Investigation and Trial Preparation Course within the first year of employment.

411.4 TRAINING MANUAL

Each new investigator will be issued a Training Manual upon appointment. The manual is an overview of the Bureau of Investigation including functions, responsibilities, and resources. This manual is an operational guide for procedural, historical, and cultural functions within the Bureau of Investigation.

411.5 REQUIRED TRAINING

Investigators shall be required to successfully complete the new investigator training program. The training period will consist of a minimum of one week. The training period may be modified depending on the investigator’s demonstrated performance, level of experience and familiarity with the County of Kern law enforcement community and the Kern County District Attorney’s Office. Once the investigator has successfully completed the training program, the Administrative Lieutenant will request the Chief Investigator to release the new investigator from training and transfer the investigator to their duty assignment.

411.6 TRAINING MANUAL

Each new investigator will be issued a Training Manual upon appointment. The manual is an overview of the Bureau of Investigation including functions, responsibilities, and resources. This manual is an operational guide for procedural, historical and cultural functions within the Bureau of Investigation.

411.7 EVALUATION

Evaluations are an important component of the training and orientation process. Upon successful completion of the training phase, the new investigator will report to his/her assigned division

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Lieutenant to discuss the training. The assigned Lieutenant will identify additional training needs of the new investigator based on their current assignment.

The assigned Lieutenant will forward a recommendation(s) memorandum to the Chief Investigator regarding the training needs and assignment of the new investigator.

The investigator shall within one week of the conclusion of the training period, complete a confidential memorandum addressed to the Chief Investigator regarding the pro's and con's of the orientation and training process.

411.8 RETENTION

The completed memorandum shall be returned to the Administrative Division Lieutenant to be placed in the investigator’s training file.

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Automated License Plate Readers (ALPRs)

412.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the capture, storage and use of digital data obtained through the use of Automated License Plate Reader (ALPR) technology.

412.2 POLICY

The policy of the Kern County District Attorney's Office Bureau of Investigation is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this bureau. Because such data may contain confidential information, it is not open to public review.

412.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the Kern County District Attorney's Office Bureau of Investigation to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Administration Division Chief. The Administration Division Chief will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

412.3.1 ALPR ADMINISTRATOR

The Administration Division Chief shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

(a) A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.

(b) Training requirements for authorized users.

(c) A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.

(d) Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.

(e) The title and name of the current designee in overseeing the ALPR operation.

(f) Working with the Custodian of Records on the retention and destruction of ALPR data.

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(g) Ensuring this policy and related procedures are conspicuously posted on the bureau's website.

412.4 OPERATIONS

Use of an ALPR is restricted to the purposes outlined below. Bureau members shall not use, or allow others to use the equipment or database records for any unauthorized purpose (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

(a) An ALPR shall only be used for official law enforcement business.

(b) An ALPR may be used in conjunction with any routine patrol operation or criminal investigation. Reasonable suspicion or probable cause is not required before using an ALPR.

(c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.

(d) No member of this bureau shall operate ALPR equipment or access ALPR data without first completing bureau-approved training.

(e) No ALPR operator may access bureau, state or federal data unless otherwise authorized to do so.

(f) If practicable, the investigator should verify an ALPR response through the California Law Enforcement Telecommunications System (CLETS) before taking enforcement action that is based solely on an ALPR alert.

412.5 DATA COLLECTION AND RETENTION

The Administration Division Chief is responsible for ensuring systems and processes are in place for the proper collection and retention of ALPR data. Data will be transferred from vehicles to the designated storage in accordance with bureau procedures.

All ALPR data downloaded to the server should be stored for a minimum of one year and in accordance with the established records retention schedule. Thereafter, ALPR data should be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action or is subject to a discovery request or other lawful action to produce records. In those circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

412.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The Kern County District Attorney's Office Bureau of Investigation will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

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(a) All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).

(b) Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or bureau-related civil or administrative action.

(c) ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

412.7 RELEASING ALPR DATA

The ALPR data may be shared only with other law enforcement or prosecutorial agencies for official law enforcement purposes or as otherwise permitted by law, using the following procedures:

(a) The agency makes a written request for the ALPR data that includes:

1. The name of the agency.
2. The name of the person requesting.
3. The intended purpose of obtaining the information.

(b) The request is reviewed by the Administration Division Chief or the authorized designee and approved before the request is fulfilled.

(c) The approved request is retained on file.

Requests for ALPR data by non-law enforcement or non-prosecutorial agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

412.8 TRAINING

The Administrative Lieutenant should ensure that members receive bureau-approved training for those authorized to use or access the ALPR system (Civil Code § 1798.90.51; Civil Code § 1798.90.53).

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Chapter 5 - Investigation Operations

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Brady Material Disclosure

500.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

500.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** - Information known or possessed by the Kern County District Attorney's Office Bureau of Investigation that is both favorable and material to the current prosecution or defense of a criminal defendant.

500.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation 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 Kern County District Attorney's Office Bureau of Investigation will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Bureau will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

500.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Investigators must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an investigator learns of potentially incriminating or exculpatory information any time after submission of a case, the investigator must prepare and submit a supplemental report documenting such information as soon as practicable.

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. If an investigator is unsure whether evidence or facts are material, the investigator should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Bureau case file.

500.4 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 material witness in a criminal case, the following procedure shall apply:

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(a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the 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 who is the subject of such a motion shall be notified in writing that a motion has been filed.

(d) Requests for personnel records by legal process shall be forwarded to County Counsel for appropriate handing by the Custodian of Records. The Custodian or Records shall accompany all relevant files during any in-camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.

(e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.

1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

500.5 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.

500.6 TRAINING

Bureau members should receive periodic training on the requirements of this policy.

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Informants

501.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

501.1.1 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 Kern County District Attorney's Office Bureau of Investigation for law enforcement purposes. This also includes a person agreeing to supply information to the Kern County District Attorney's Office Bureau of Investigation for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty or money).

501.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation 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.

501.3 USE OF INFORMANTS

501.3.1 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.

501.3.2 JUVENILE INFORMANTS

No minor shall be utilized as an informant except in compliance with Penal Code § 701.5. In addition, it is the policy of Kern County District Attorney's Office Bureau of Investigation that no minor shall be used as an informant, as herein defined, without the prior written approval of the Chief Investigator and the elected Kern County District Attorney.

501.3.3 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.

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501.4 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

(a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief Investigator, Lieutenant 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 investigators, employees or agents of the Kern County District Attorney's Office Bureau of Investigation, and that they shall not represent themselves as such.

(d) The relationship between bureau members and informants shall always be ethical and professional.

(a) Members shall not become intimately involved with an informant.

(b) Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of the Lieutenant 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 unless accompanied by at least one additional investigator.

(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.

501.4.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a 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.

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(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.

(h) The informant shall be run through a law enforcement clearing house to assist in determining suitability.

501.5 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 Kern County District Attorney's Office Bureau of Investigation. The Lieutenant or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief Investigator Lieutenant or their authorized designees.

The Chief Investigator 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 Kern County District Attorney's Office Bureau of Investigation 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.

501.5.1 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

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(e) Current home address and telephone numbers

(f) Current employers, positions, addresses and telephone numbers

(g) Vehicles owned and registration information

(h) 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.

(i) Name of the investigator initiating use of the informant

(j) Signed informant agreement

(k) Update on active or inactive status of informant

501.6 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

501.6.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

(a) Payments of $100 and under may be paid in cash by an investigator using buy/expense funds.

(a) The Lieutenant shall be notified of the payment prior to dispersal of funds.

(b) A written statement of the informant's involvement in the case shall be placed in the informant's file.

(a) The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.

(b) Payments of $500 and under may be paid in cash by an investigator using buy/expense funds.

(a) The Lieutenantshall sign the voucher for cash payouts from the buy/expense fund prior to dispersal of funds.

(b) A written statement of the informant's involvement in the case shall be placed in the informant's file.

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(a) The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.

(c) Payments exceeding $500 shall be made bybyan investigator using buy/expense funds..

(a) The Chief Investigator shall sign the voucher for payouts from the buy/expense fund prior to dispersal of funds

(b) A written statement of the informant's involvement in the case shall be placed in the informant's file.

(a) The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.

(d) 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) Kern County District Attorney's Office Bureau of Investigation 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.

501.6.2 REPORTING OF PAYMENTS

Each informant receiving a cash payment shall be advised of his/her responsibility to report the cash to the Internal Revenue Service (IRS) as income. If funds distributed exceed $600 in any reporting year, the informant should be provided IRS Form 1099 (26 CFR 1.6041-1). If such documentation or reporting may reveal the identity of the informant and by doing so jeopardize any investigation, the safety of investigators or the safety of the informant (26 CFR 1.6041-3), then IRS Form 1099 should not be issued.

In such cases, the informant shall be provided a letter identifying the amount he/she must report on a tax return as "other income" and shall be required to provide a signed acknowledgement of receipt of the letter. The completed acknowledgement form and a copy of the letter shall be retained in the informant's file.

501.6.3 AUDIT OF PAYMENTS AND FUND SECURITY

The Lieutenant or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

Informant funds will be stored in a secure location of the Kern County District Attorney's Office Bureau of Investigation. Each investigator assigned informant funds will be responsible for the security of those funds until such time they are expended or returned to the Bureau fund.

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Investigators assigned a buy/expense fund will keep detailed records of incoming and outgoing funds. They will report transactions monthly to the Lieutenant or their designee.

At least once every twelve months, the Chief Investigator 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. At the conclusion of the fiscal year, all unexpended funds will be returned to the Kern County District Attorney Accounting to be appropriately deposited.

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Eyewitness Identification

502.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this bureau employ eyewitness identification techniques (Penal Code § 859.7).

502.1.1 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.

502.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation 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.

502.3 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.

502.4 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.

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.

502.5 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).

502.6 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 should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

502.6.1 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 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).

502.7 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.

502.7.1 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).

502.7.2 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).

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California Witness Relocation Assistance Program (CAL WRAP)

503.1 PURPOSE AND SCOPE

To establish guidelines for the proper utilization of the California Witness Relocation Assistance Program (CAL WRAP) program and accountability of all funds utilized by the Bureau of Investigation.

The CAL WRAP program is administered by the State of California Department of Justice. The program allows law enforcement agencies, through the District Attorney's Office, to relocate victims and witnesses of crimes in order to assist with the prosecution of criminal defendants. Applicants to this program must be approved by the District Attorney's Office and the State of California Department of Justice. The basic criteria for victims or witnesses to qualify for the program are:

- There must be a credible or articulable danger of injury or death to the victim or witness related to their cooperation with law enforcement in the investigation and prosecution of crimes.
- The criminal case must be a filed case or expect to be filed. Cases that have already been adjudicated do not qualify.
- The victim or witness must be needed in order to prosecute the case.
- The victim or witness must agree to abide by the rules of the program.
- The victim or witness must move out of the area and remain out of that area.
- The CAL WRAP program should not be used for the sole purpose of convincing victims or witnesses to cooperate in cases.

503.2 RESPONSIBILITY AND REVIEW

(a) It is the responsibility of the District Attorney Investigator to review a case to determine if the victims or witnesses qualify for the program. If they qualify, the investigator will contact CAL WRAP and open a case. Once a case has been opened, the investigator must adhere to the following:

1. Within 3-days notify the Kern County District Attorney's Office Bureau of Investigation CAL WRAP Coordinator of the new case.
2. Within 60-days complete the 25% match documentation and submit it to the CAL WRAP Coordinator.
3. If case is still open after 90 days, submit documentation to the CAL WRAP Coordinator for reimbursement; repeat every 90 days until case is closed and final reimbursement is submitted to CAL WRAP Coordinator.
4. For CAL WRAP funds to be issued, submit a memorandum to the CAL WRAP Coordinator for review. Once the memorandum has been reviewed, submit it to the Criminal Division Lieutenant for approval.

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(a) The memorandum should include receipts and a detail of services.

5. Give all documentation/receipts to the CAL WRAP Coordinator for retention in the case binder.

6. Follow all policies and procedures per the California Attorney's General's CAL WRAP manual.

(b) It is the responsibility of the CAL WRAP Coordinator to adhere to the following:

1. Maintain a list of all CAL WRAP cases.

2. Maintain all active CAL WRAP case binders.

(a) Once a month review the open cases to confirm they are in compliance with CAL WRAP policies and procedures.

3. Review all requests for CAL WRAP funds and requests for reimbursement submitted by the investigator.

4. Submit all requests to CAL WRAP per their policies and procedures.

5. Follow all policies and procedures per the California Attorney's General's CAL WRAP manual.

(c) It is the responsibility of the Criminal Division Lieutenant to adhere to the following:

1. Arrange annual CAL WRAP training for the Criminal Division.

2. Select a CAL WRAP Coordinator for the Criminal Division.

3. Approve all requests for CAL WRAP funding. In the absence of the Criminal Division Lieutenant, another Lieutenant can approve the request.

4. Prepare and present a quarterly overview of all open CAL WRAP cases to the Chief Investigator.

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Protective Services Detail

504.1 SECTION TITLE

The purpose of the Protective Services Detail (PSD) is to:

(a) Assess threats against the District Attorney, District Attorney Staff and when requested, case victims or witnesses

(b) Develop safety recommendations

(c) Provide protection against harm

The Detail is comprised of a District Attorney Lieutenant and Investigators selected, trained and equipped to conduct personnel and facilities threat assessments, provide safety training, investigate direct or implied threats, prepare operations plans and provide protection.

504.2 OPERATIONAL POLICY

The first line of defense for District Attorney Employees is to recognize behaviors that should be immediately reported to their supervisors. Some of these behaviors include:

(a) Physical altercation or assaultive behavior

(b) Direct and indirect threats

(c) Threatening and/or harassing phone calls, emails or text messages

(d) Inappropriate following or pursuit

(e) Stalking

(f) Inappropriate display of weapon(s)

(g) Destruction of property

(h) Challenging or intimidating conduct

(i) Other suspicious activity

Supervisor Responsibilities:

Supervisors will attempt to obtain relevant preliminary information, such as:

(a) When did the conduct take place?

(b) Where did the conduct take place?

(c) The identity of the perpetrator(s)

(d) Has the jurisdictional law enforcement agency been contacted?

(e) Are there prior incidents involving the perpetrator(s) or the employee?

Supervisors will contact the PSD Lieutenant, or in his absence, the Bureau Chief or other Bureau Lieutenant.

At the request of the District Attorney, the Assistant District Attorney or Bureau Chief, PSD may be tasked with conducting vulnerability assessment(s) of District Attorney Facilities and/or assets.

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The District Attorney, Assistant District Attorney or Bureau Chief may also request PSD be deployed to provide protection to the District Attorney, Assistant District Attorney or other DA Staff while participating in events open to the public, meeting with potentially hostile person(s), participating in media sensitive or controversial press or public meetings or while traveling in areas that may pose a threat.

504.3 REPORTING POLICY

It shall be the Policy of the District Attorney's Office to report all direct and implied threats made against District Attorney personnel, case victims or witnesses to the PSD Lieutenant as soon as practical.

504.4 SELECTION AND RETENTION PROCESS

The PSD is a collateral, volunteer unit made up of a Lieutenant and Investigators. The Chief Investigator will designate a Bureau Lieutenant who will have overall responsibility for recruitment, retention, case management, operations, training and equipment.

Participation in the PSD is voluntary and selection/retention of personnel will be made by the PSD Lieutenant. The criteria for selection may include:

(a) The investigator's training, experience and education

(b) The investigator's past Bureau performance

(c) The investigator's workload and ability to take on additional duties

Investigators interested in participating will submit a detailed memorandum to the PSD Lieutenant via the Chain Of Command. The memorandum should describe the aforementioned areas.

At his discretion, the PSD Lieutenant may seek input from other Bureau Lieutenants, Attorney Supervisors and conduct a review of personnel files. The PSD Lieutenant may also interview applicants before making the final selection.

Retention in the PSD will be at the discretion of the PSD Lieutenant and Chief Investigator.

504.5 TRAINING POLICY

PSD members shall participate in the following training:

(a) Terrorism Liaison Officer Basic Course

(b) LA HIDTA Introduction to Dignitary Protection Class

(c) CADOJ Dignitary Protection Course

(d) Rifle qualification Course

(e) Defensive Tactics Course

(f) Expandable Baton Course

(g) Ongoing threat assessment training

(h) Ongoing tactical training

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The PSD Lieutenant shall conduct periodic training needs assessments to ensure members receive up to date, relevant and appropriate training.

504.6 UNIFORM AND EQUIPMENT

PSD members shall have the following at their disposal:

(a) Bureau issued sidearm, magazines and ammunition

(b) Bureau communications radio

(c) Bureau issued rifle

(d) Bureau issued vehicle

(e) Bureau issued body armor

(f) Bureau issued handcuffs

(g) Bureau OC Spray

(h) Bureau issued or approved expandable baton

(i) Bureau issued raid jacket and polo shirt

(j) Bureau tactical uniform in accordance with the Personal Appearance Standards policy

504.7 INTER AGENCY INTERACTION

PSD Investigators are ecouraged to use available local, State and Federal resources when conducting investigations and performing protection functions. All requests for outside assistance shall be previously approved by the PSD Lieutenant.

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Law Enforcement Access to Department of Human Services Records

505.1 PURPOSE AND SCOPE

This policy provides guidelines on the access and disclosure of Department of Human Services (DHS) benefit recipient information for law enforcement purposes.

505.1.1 DEFINITIONS

CalFresh- Federal nutrition program aimed to help low income, eligible persons to purchase food. Formerly known as Food Stamps, this program is managed by each County in California. CalFresh benefits are not cash.

CalWorks- State program aimed at providing immediate financial aid to needy families.

In Home Support Services (IHSS) - Financial assistance to pay for care services for elderly, the disabled or blind.

505.1.2 REFERENCES

Welfare and Institutions Code Section 10850 - Confidentiality of Records

7 US Code of Federal Regulations 272.1 - Disclosure of information

CA Department of Social Services Manual Section 19-004 - Release of Confidential Information

Kern County District Attorney Policy and Procedure Manual Section 8 - Violation of Federal, State Statute or Local Ordinance.

505.2 POLICY

Public Aid and Services program participant information kept by any public agency or officer is deemed confidential and shall not be open to examination for any purpose not directly connected with the administration of that program. These programs include CalWorks,CalFresh and IHSS. Disclosure of any information that identifies by name or address any applicant is prohibited by State and Federal law. (WI 10850A; 7 USC 272.1)

It shall be the policy of the Bureau of Investigation to limit the access to DHS records, including the California Statewide Automated Welfare System (C-IV) only to employees assigned to the Welfare Fraud Special Investigations Unit.

505.3 REQUESTS

Bureau members shall refer all internal and outside agency requests for CalWorks, CalFresh and IHSS information to the Financial Crimes Division Lieutenant or Bureau Chief, who will determine if the request meets the criteria listed above.

505.3.1 LAW ENFORCEMENT EXCEPTIONS

The law provides a limited number of exceptions to law enforcement officers. They are:

(a) For the investigation of benefits fraud

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(b) When the applicant has a Felony or Misdemeanor Arrest Warrant

(c) When the applicant is a suspect or victim of child abduction

(d) When the applicant is in violation of State or Federal Probation or Parole conditions

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Child Abduction Unit

506.1 PURPOSE AND SCOPE

To establish guidelines and responsibilities regarding the Bureau of Investigation's response to reports of missing children as a result of a Family Abduction and enforcement of custody orders.

California Family Code sections 3130 through 3134.5 mandate District Attorneys to assist the Family Law courts in enforcing their orders and in locating and returning missing children to the jurisdiction of the court.

The Kern County District Attorney's Office is committed to protecting the custody rights of parents and legal guardians throughout Kern County and prosecuting those who abduct children in violation of those rights and California law. (Penal Code § 277 et seq.).

506.1.1 DEFINITIONS

Child Abduction Unit (CAU) - The unit within the District Attorney's Office Bureau of Investigation assigned to the investigation of Parental or Family Child Abductions.

Left Behind Parent - The Parent or Legal Guardian who, having legal custody of a child, makes a report of Child Abduction.

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 § 14213).

Child - A person who is younger than 18 years of age.

Nonfamily Abduction - Involving a child who has been wrongfully taken by a nonfamily perpetrator through the use of physical force, persuasion, or threat of bodily harm.

Family Abduction - Occurs when, in violation of a court order, a decree, or other legitimate custodial rights, a member of the child's family, or someone acting on behalf of a family member, takes or fails to return a child. This is also referred to as parental kidnapping and custodial interference.

Runaway Child - A child, often a teenager, who leaves home voluntarily for a variety of reasons.

Throwaway Child - A child whose caretaker makes no effort to recover the child after running away, who has been abandoned or deserted, or who has been asked to leave his or her home and not allowed to return. While not necessarily reported to authorities as missing, children in this category frequently come to the attention of law enforcement.

Lost, Injured, or Otherwise Missing Child - A child who has disappeared under unknown circumstances. The incident may range from the child wandering away and becoming lost to the child being abducted wherein no one witnessed the act. These circumstances sometimes involve

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"foul play," where those reporting the incident are attempting to cover-up a crime involving the child.

Court Order or Custody Order - A custody determination decree, judgment, or order issued by a court of competent jurisdiction, whether permanent or temporary, initial or modified, that affects the custody or visitation of a child, issued in the context of a custody proceeding. An order, once made, shall continue in effect until it expires, is modified, is rescinded, or terminates by operation of law.

506.2 PROCEDURES

The CAU is the lead law enforcement agency on family abduction cases in the County where the Left Behind Parent resides. All other types of missing children cases will be handled by the appropriate law enforcement agency.

The CAU will investigate family abduction cases even if no legal custody has been obtained. The primary goals of the CAU are to ensure the safety of children and compliance with current Court Orders and California law.

506.3 INITIAL INVESTIGATION

Investigators and/or Investigative Aides conducting the initial investigation of a family abduction should take the following actions, as applicable:

(a) Interview the Left Behind Parent.

(b) Have the Left Behind Parent complete the child abduction questionnaire.

(c) Assign each case a DA number and a CAU number.

(d) Determine if the Taking Parent is a flight risk

(e) Notify a supervisor immediately if the missing children are at risk of being removed from the United States.

(f) If the missing children are at risk, take all necessary precautions in order to prevent the children from being removed from the United States.

(g) Obtain copies of police reports.

(h) Obtain copies of custody orders.

(i) If no custody orders exist, encourage the Left Behind Parent to obtain one.

(j) Attempt to locate the missing children and the Taking Parent.

(k) Once located and it is determined the Taking Parent is not a flight risk, a welfare check should be conducted on the children as soon as possible.

(l) Attempt an interview with the Taking Parent and advise them of Penal Code § 277 et seq. (Child Concealment).

(m) Serve Taking Parent with current custody orders.

(n) Confirm all parties are in court and/or are in compliance with current custody orders and California law.

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506.4 CRIMINAL INVESTIGATION

At any time during the initial investigation if evidence supports a criminal investigation or if law enforcement action is needed (i.e. enforcing a custody order), the case will be assigned by a supervisor to an investigator.

The assigned investigator should take the following investigative actions, as applicable:

(a) Verify all court order prior to enforcing them.

(b) If the order cannot be verified and the child is in the presence of law enforcement, attempt to take the child(ren) into protective custody, pursuant to the provisions of Penal Code section 279.6.

(c) 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.

(d) Release the child to the social services agency responsible for arranging shelter or foster care.

(e) Return the child as ordered by a court of competent jurisdiction.

506.5 SUPERVISOR RESPONSIBILITIES

It is the responsibility of the Criminal Division Lieutenant to assign all Child Abduction criminal investigations and to approve all Child Abduction investigative reports.

506.6 WHEN A MISSING CHILD IS FOUND

When any reported missing child is found, the assigned investigator shall document the location of the missing person in the appropriate report, notify the reporting party and other involved agencies.

506.7 CASE CLOSURE

A case may be closed when one or more of the following criteria have been met:

(a) The missing children have been located and all involved parties are complying with current custody orders and California law.

(b) The missing children have been located and all criminal court proceedings have been completed.

(c) The missing children have been located and the Left Behind Parent no longer requests the assistance of the CAU.

506.8 GOOD CAUSE LETTERS

Penal Code § 277 et seq. (Child Concealment) 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. Penal Code § 278.7 (a).

Penal Code 278.7 (c) (1) Requires the person who takes, entices away, keeps, withholds, or conceals a child shall 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

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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.

These reports are called “Good Cause Letters” and shall be maintained in a database by the CAU. The address and telephone number of the person and the child provided 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.

506.9 REIMBURSEMENT

All investigative work performed on a Child Abduction case is reimbursable by the State of California. Employees assigned to the CAU must document their hours worked on their time sheet each pay-period and submit the necessary case statistical information to the Business Office annually or when requested.

506.10 TRAINING

Ongoing training is essential to the performance of the Child Abduction mandate because of frequent turnover in staff, rapidly changing technology, and developments in case law, statutes, and procedures. The cost of training an employee to perform these mandated activities is eligible for reimbursement. Reimbursable costs may include salaries and benefits, registration fees, transportation, lodging, and per diem.

It is the responsibility of the Training Lieutenant to ensure that members of this department whose duties include Child Abduction investigations receive regular training.

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Electronic Monitoring Devices (Ankle Monitors)

507.1 PURPOSE AND SCOPE

This policy provides guidance on the determination of and use of electronic monitoring devices for the purpose of maintaining contact with vital witnesses and victims in significant criminal cases.

507.1.1 POLICY

The Kern County District Attorney's Office utilizes electronic monitoring devices as an alternative to incarceration of a material witness who has been deemed by the court to have refused compliance with an order requiring their appearance at a court hearing.

507.1.2 DEFINITIONS

Electronic Monitoring Device (EMD) – A KCDA owned device which is applied to the ankle of a material witness and is capable of tracking the location of the witness through Global Positioning Satellites (GPS).

507.1.3 REFERENCES

California Penal Code 1332 – Material Witness failure to appear

California Penal Code 667.5(c) – Prior convictions for violent felonies

California Penal Code 1192.7(c) – Serious felonies

California Penal Code 881 – Taking of a Material Witness into custody

People v. Homes, McLain, Newborn (2022) 12 Cal.5th 719, 729

In re Francisco M (2001) 86 Cal.App.4th 1061, 1076-1077

507.2 GOALS AND BENEFITS

The Kern County District Attorney's Office Electronic Monitoring Program can be an effective tool in striking a balance between the necessity to effectively prosecute criminal cases with the court-ordered attendance by a witness and the freedoms and liberties of said witnesses. This program allows participants to remain free of custody while still adhering to the order of the court requiring their attendance. This program reduces the burden of the Kern County Sheriff's Office who would otherwise be responsible for housing a witness who has been ordered to remain in custody. This in turn reduces the overall cost of such proceedings and witness management.

507.3 PROCEDURES

The Kern County District Attorney's Office will thoroughly review the potential candidate to ensure the use of an EMD is reasonable and appropriate for the circumstances. Such review will include a determination of eligibility, a formal request for application of an EMD by the assigned Deputy District Attorney, a background check of the candidate, a KCDA supervisor approval process, and finally an order of the court to utilize such equipment.

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507.3.1 ELIGIBILITY

The decision to request the use of an EMD on a material witness is not one taken lightly by the Kern County District Attorney's Office as it is recognized that it results in a significant invasion of one's privacy. For that reason, eligibility for an EMD will be limited to the following conditions:

- The witness must be a material witness for a criminal prosecution.
- The criminal prosecution must be for a significant felony.
- At least one defendant on the criminal case must be in physical custody during the entirety of the time the material witness is monitored by EMD.
- This material witness must fit the criteria established in California Penal Code 1332(b) and be otherwise eligible to be taken into physical custody of the Sheriff by order of the court.

A time may arise in which a material witness is also a listed defendant on either the same or a separate criminal case. The desire to utilize and EMD will not outweigh any other legal obligations the material witness may face for their pending criminal cases.

507.3.2 REQUEST FOR MONITORING

Consideration of placing an EMD on a material witness will be initiated by a request for monitoring by the Deputy District Attorney assigned to prosecute the criminal case. The Deputy District Attorney will provide relevant information and a detailed explanation of why they believe the use of an EMD is reasonable and appropriate for the material witness.

507.3.3 BACKGROUND CHECK AND APPROVAL PROCESS

Prior to the utilization of an EMD, a background check will be conducted on the material witness. The background shall include a thorough review of the witness's entire criminal record.

Special attention should be paid to any prior cases involving:

- Crimes of violence
- Weapons charges
- Stalking
- Escape risks
- Gang involvement
- Severity of past/current charges and/or convictions
- Risk to community or other witnesses/victims
- Prior convictions for violent felonies, as defined in subdivision (c) of California Penal Code Section 667.5, or serious felonies, as defined in subdivision (c) of California Penal code Section 1192.7.

The discovery of the above criminal history may be weighed in the decision to approve the use of an EMD, it will not be an automatic exclusion when coupled with the totality of the circumstances.

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Following the completion of the background check, the request for monitoring and background check will be reviewed by a Supervising Deputy District Attorney. The request will then be submitted to the Bureau of Investigations Chief Investigator, or their designee, for final approval.

507.3.4 JUDICIAL APPROVAL PROCESS

Following the approval process, the assigned Deputy District Attorney will draft an agreement between the material witness, their legal representative and the Kern County District Attorney's Office. This agreement will outline the requirements and responsibilities of the material witness while being monitored. This agreement will be submitted to the court for consideration. If the agreement is deemed reasonable and appropriate by the court, the court will order the use of the EMD in lieu of the material witness remaining in, or being taken into, physical custody.

507.3.5 INSTALLATION OF DEVICE AND DOCUMENTATION

When a Kern County Superior Court Judge has issued an order directing the Kern County District Attorney's Office to place an EMD on a material witness, a District Attorney Investigator (DAI) will be assigned to complete appropriate documentation, apply the device, and monitor the individual.

The DAI will be responsible for coordinating with the Kern County Sheriff's Office Jail to take temporary custody of the material witness immediately following their release from physical custody. The DAI will then be responsible for the following:

- Complete a contact information sheet.
- Provide a copy of the Court Order to the material witness and ensure their understanding.
- Provide contact information to the material witness should they need to contact KCDA.
- Introduce the material witness to the EMD hardware and demonstrate appropriate use of such.
- Establish an account for the material witness within the EMD monitoring software.
- Assigned a monitor and a monitor charger to the material witness.
- Fit the EMD to the material witness's ankle and apply it ensuring it is securely in place.
- Confirm the EMD is properly functioning in the monitoring software.
- Transport the material witness to the location they will be staying.

The DAI will ensure the Court Order, contact information sheet and any other relevant information is attached to the witness and court case within the KCDA report management system.

507.3.6 MONITORING

The DAI assigned to the material witness will be responsible for maintaining contact with the material witness and ensuring reasonable compliance with the Court Order. The DAI will periodically check the monitoring software to ensure the equipment is continuing to function properly and that the material witness has not violated the terms of the Court Order. The DAI will establish phone or in-person contact with the material witness as prescribed by the Court Order.

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The assigned Deputy District Attorney will ensure the DAI is kept apprised of any court hearings requiring the presence of the material witness.

507.3.7 VIOLATIONS

The EMD is designed to closely monitor the actions of the person being monitored and has the capacity to alert the DAI responsible for monitoring the individual to a number of potential issues. These alerts will be reviewed by the assigned DAI to determine whether or not action is required on them. In the event an alert is made that indicates the material witness has tampered with or removed the EMD, the DAI will attempt to personally locate the material witness to examine the EMD. In the event they are unable to locate the witness or EMD, they will notify their supervisor so the task can be further assessed for the necessity of additional resources.

If a material witness has in fact violated the terms of the Court Order, the assigned Deputy District Attorney will be notified. The matter will be presented to the court for consideration of additional charges or the issuance of a warrant for the material witness's arrest.

All reasonable efforts will be made to locate the material witness and to recover the equipment.

507.3.8 REMOVAL

Upon order of the court, or completion of the material witness's obligation to be present in court, the EMD will be removed by the DAI.

The assigned DAI will also have the discretion to remove the EMD for maintenance or to replace the unit.

There may be other extenuating circumstances that require immediate removal absent a Court Order which will be evaluated on a case-by-case basis.

507.4 TRAINING

All District Attorney Investigators responsible for the utilization of Electronic Monitoring Devices will be provided training on the use of the equipment, proper application, the monitoring software, proper removal, and the approval process.

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Operations Planning and Deconfliction

508.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction, and execution of search warrants and high-risk operations. 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 service of search warrants on locations or property already secured or routine in-field arrests.

508.1.1 DEFINITIONS

Definitions related to this policy include:

High-risk operations - Operations, including service of search and arrest warrants and sting operations, that are likely to present higher risks than are commonly faced by investigators on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

508.2 POLICY

It is the policy of the Kern County District Attorney's Office Bureau of Investigation to balance the safety needs of the public, the safety of KCDA personnel, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants. The Kern County District Attorney's Office Bureau of Investigation will properly plan and carry out high-risk operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

508.3 OPERATIONS DIRECTOR

The Chief Investigator will designate a member of this bureau to be the operations director.

The operations director will develop and maintain a risk assessment form to assess, plan and coordinate operations. This form should provide a process to identify high-risk operations.

The operations director will review risk assessment forms with involved supervisors to determine whether a particular incident qualifies as a high-risk operation. The director will also have the responsibility for coordinating operations that are categorized as high risk.

508.4 SEARCH WARRANTS

Investigators will complete the risk assessment form and submit it, along with the search warrant, to the appropriate supervisor and the operations director for review and classification of risk.

508.5 RISK ASSESSMENT

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508.5.1 RISK ASSESSMENT FORM PREPARATION

Investigators assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

When preparing the form, the investigator should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the investigator should also submit information to these resources.

The investigator should gather available information that includes, but is not limited to:

(a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.

(b) Maps of the location.

(c) Diagrams of any property and the interior of any buildings that are involved.

(d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).

(e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).

(f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).

(g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).

(h) Other available options that may minimize the risk to investigators and others (e.g., making an off-site arrest or detention of the subject of investigation).

508.5.2 RISK ASSESSMENT REVIEW

Investigators will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director.

The supervisor and operations director shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

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508.5.3 HIGH-RISK OPERATIONS

If the operations director, after consultation with the involved supervisor, determines that the operation is high risk, the operations director should:

(a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:
    (a) (SWAT) (Resource available through allied agencies)
    (b) Additional personnel
    (c) Outside agency assistance
    (d) Special equipment
    (e) Medical personnel
    (f) Persons trained in negotiation(Resource available through allied agencies)
    (g) Additional surveillance
    (h) Canines(Resource available through allied agencies)
    (i) Investigative Specialist or analytical personnel to assist with cataloguing seizures
    (j) Forensic specialists
    (k) Specialized mapping for larger or complex locations
(b) Contact the appropriate bureau members or other agencies as warranted to begin preparation.
(c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.
(d) Coordinate the actual operation.

508.6 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The investigator who is the operations lead shall ensure the subject of investigation and operations information have been entered in an applicable deconfliction system to determine if there is reported conflicting activity. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. The investigator should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

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508.7 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director 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 assistance in the service of a warrant within this jurisdiction should be referred to the operations director. The director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. the director should ensure that members of the Kern County District Attorney's Office Bureau of Investigation are utilized appropriately. Any concerns regarding the requested use of Kern County District Attorney's Office Bureau of Investigation members should be brought to the attention of the Chief Investigator or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the operations director is unavailable, the Lieutenant should assume this role.

If investigators intend to serve a warrant outside Kern County District Attorney's Office Bureau of Investigation jurisdiction, the operations director 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.

Investigators will remain subject to the policies of the Kern County District Attorney's Office Bureau of Investigation when assisting outside agencies or serving a warrant outside Kern County District Attorney's Office Bureau of Investigation jurisdiction.

508.8 OPERATIONS PLAN

The operations director should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

(a) Operation goals, objectives, and strategies.

(b) Operation location and people:

1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)

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2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids
3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)
4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties, and children

(c) Information from the risk assessment form by attaching a completed copy in the operational plan.

1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.

(d) Participants and their roles.

1. An adequate number of uniformed investigators should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.
2. How all participants will be identified as law enforcement.

(e) Whether deconfliction submissions are current and all involved individuals, groups, and locations have been deconflicted to the extent reasonably practicable.

(f) Identification of all communications channels and call-signs.

(g) Use of force issues.

(h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).

(i) Plans for detaining people who are not under arrest.

(j) Contingencies for handling children, dependent adults, animals, and other people who might be at the location in accordance with the Child Abuse, Senior and Disability Victimization, Child and Dependent Adult Safety, and Animal Control policies.

(k) Communications plan.

(l) Responsibilities for writing, collecting, reviewing, and approving reports.

508.8.1 OPERATIONS PLAN RETENTION

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with the established records retention schedule.

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508.9 OPERATIONS BRIEFING

A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

(a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.

(b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant and initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.

(c) The operations director shall ensure that all participants are visually identifiable as law enforcement officers.

1. Exceptions may be made by the operations director for investigators who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.

(d) The briefing should include details of the communications plan.

1. It is the responsibility of the operations director to ensure that the Communications Center is notified of the time and location of the operation, and to provide a copy of the operation plan prior to investigators arriving at the location.

2. If the radio channel needs to be monitored by the Communications Center, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.

3. The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

508.10 SWAT PARTICIPATION

If the operations director determines that SWAT participation is appropriate, the director and the SWAT supervisor shall work together to develop a written plan. The SWAT supervisor shall assume operational control until all persons at the scene are appropriately detained and it is safe to begin a search. When this occurs, the SWAT supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the investigators present.

508.11 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief Investigator. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy of the Kern County District Attorney's Office.

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508.12 OPERATIONS DEBRIEFING

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. This debrief may be separate from any SWAT debriefing.

508.13 TRAINING

The Administrative Lieutenant should ensure investigators receive periodic training including, but not limited to, topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

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Warrant Service

509.1 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 intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by patrol investigators.

509.2 POLICY

It is the policy of the Kern County District Attorney's Office Bureau of Investigation 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.

509.3 OPERATIONS DIRECTOR

The operations director (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The operations director 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 guidelines in the Operations Planning and Deconfliction Policy.

509.4 SEARCH WARRANTS

Investigators should receive authorization from a supervisor before preparing a search warrant application. Once authorization is received, the investigator will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

509.5 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 should complete the risk assessment form and submit it to the appropriate supervisor and the operations director for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the operations director. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

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509.6 WARRANT PREPARATION

An investigator who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

(a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime or no-knock 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).

509.7 HIGH-RISK WARRANT SERVICE

The operations director or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of investigators deployed.

The member responsible for directing the service should ensure the following as applicable:

(a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.

(b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.

(c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.

(d) Reasonable efforts are made during the search to maintain or restore the condition of the location.

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(e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.

(f) Reasonable care provisions are made for children and dependent adults (see the Child and Dependent Adult Safety Policy).

(g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.

(h) A copy of the search warrant is left at the location.

(i) The condition of the property is documented with video recording or photographs after the search.

509.8 NO-KNOCK ENTRIES

No-knock entries are only authorized if a no-knock warrant has been obtained or if exigent circumstances arise at the scene such that knocking and announcing the investigator's presence would create an imminent threat of physical violence to the investigator or another person.

509.9 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.

509.10 ACTIONS AFTER WARRANT SERVICE

The supervisor 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.

509.11 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director 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

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- Rules of engagement
- Asset forfeiture procedures

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations director. The director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Kern County District Attorney's Office Bureau of Investigation are utilized appropriately. Any concerns regarding the requested use of Kern County District Attorney's Office Bureau of Investigation members should be brought to the attention of the Chief Investigator or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the operations director is unavailable, the xxxxx should assume this role.

If investigators intend to serve a warrant outside Kern County District Attorney's Office Bureau of Investigation jurisdiction, the operations director 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.

Investigators will remain subject to the policies of the Kern County District Attorney's Office Bureau of Investigation when assisting outside agencies or serving a warrant outside Kern County District Attorney's Office Bureau of Investigation jurisdiction.

509.12 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the Chief Investigator. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

509.13 DOCUMENTATION

Documentation related to the service of a warrant shall be maintained in accordance with the established records retention schedule.

509.14 TRAINING

The Administrative Lieutenant should ensure investigators receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

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Forensic Genetic Genealogy

510.1 PURPOSE AND SCOPE

This policy provides guidance for the use of forensic genetic genealogy (FGG) to generate investigative leads.

510.1.1 DEFINITIONS

Definitions related to this policy include:

Combined DNA Index System (CODIS) - An FBI computer software program that operates deoxyribonucleic acid (DNA) profile databases for law enforcement use.

DNA typing laboratory - A laboratory that analyzes biological samples, including extracted DNA, in order to provide various DNA profile types. State or local crime labs are generally not equipped to provide single nucleotide polymorphism (SNP) DNA profiles; therefore, the use of private DNA typing laboratories is often necessary for FGG.

Extracted DNA - The DNA isolated from a biological sample remaining after previous DNA testing has been completed.

Forensic genetic genealogy (FGG) - The process of obtaining a SNP DNA profile from a biological sample collected during an investigation; uploading the profile to a genetic genealogy site for comparison to the consumer profiles in the site's database to identify genetic relatives; and using the identified genetic relationships, as well as traditional genealogy research, to generate investigative leads.

Genetic genealogist - A genealogist who uses DNA testing with traditional genealogical research methods to assist law enforcement or private clients in identifying biological relatives of an individual.

Genetic genealogy site - A database of DNA profiles voluntarily submitted by public consumers for the purpose of identifying genetic relatives. The availability of genetic genealogy sites for law enforcement use varies depending on their terms of service.

Short tandem repeat (STR) DNA profile - The results of DNA typing in a format that can be processed through CODIS and state DNA databases. This is the type of DNA used in conventional non-FGG law enforcement investigations.

Single nucleotide polymorphism (SNP) DNA profile - The results of DNA typing in a format that enables an unknown DNA sample to be compared to the DNA profiles maintained by a genetic genealogy site. This is the DNA type used in FGG.

510.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation's use of FGG will be in coordination with prosecutors, the Coroner, and other appropriate resources only in qualifying cases after reasonable conventional investigative methods have been pursued. Members will take

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reasonable steps to maintain the integrity of the FGG process and safeguard the privacy rights of individuals whose DNA profiles are analyzed.

510.3 CRITERIA FOR FGG USE

Before using FGG, the lead investigator should coordinate with the supervisor to determine whether the case meets the following requirements:

(a) Biological evidence collected as part of the underlying investigation (or extracted DNA from the biological evidence) is available for additional testing and is reasonably believed to be attributable to:

1. The perpetrator of an unsolved violent felony.
2. The unidentified human remains of a suspected homicide victim.

(b) All reasonable conventional investigative methods have been utilized and all reasonable investigative leads have been pursued (e.g., relevant case information entered in the National Missing and Unidentified Persons System (NamUs) and the Violent Criminal Apprehension Program (ViCAP) national database).

(c) An STR DNA profile has been developed from the biological evidence collected in the case and, absent unusual circumstances, has been uploaded to CODIS and any applicable state DNA database for comparison with negative results.

510.4 COORDINATION

Once a preliminary determination has been made that a case may qualify for the use of FGG, the lead investigating member should consult with the appropriate prosecutor to address current and prospective legal issues and determine if a search warrant is required.

In the case of unidentified human remains, the lead investigator should also consult with the Coroner.

510.5 SUBMISSION OF SAMPLE

The biological evidence or extracted DNA should be submitted to a DNA typing laboratory approved by the Bureau in order to obtain a SNP DNA profile.

Once a SNP DNA profile has been obtained from the biological evidence or extracted DNA, the lead investigating member should arrange for it to be compared to the SNP DNA profiles contained in one or more genetic genealogy sites to identify possible genetic relatives. The lead investigator should work with a qualified genetic genealogist as needed during this process.

When submitting a SNP DNA profile for comparison, the lead investigator or the authorized designee (e.g., assigned genetic genealogist) shall notify the genetic genealogy site that the request for comparison is from a law enforcement agency and confirm that the site's terms of service permit FGG for the type of case being investigated. The use of the SNP DNA profile and any subsequent comparison shall be limited to the original underlying investigation.

If at any time during the FGG process the case no longer meets the criteria for FGG use, the lead investigator should promptly notify the DNA typing laboratory, genetic genealogy site, and/or

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genetic genealogist to cease any further analysis and to return all evidence, data, and materials to the Bureau.

510.6 ANALYSIS OF FGG DATA

Once results of a comparison are received from a genetic genealogy site, the information should be evaluated by a genetic genealogist, who will assist the lead investigator in identifying potential investigative leads.

The lead investigator should promptly and diligently pursue each viable lead identified through the FGG process using traditional investigative methods, as appropriate, to:

(a) Eliminate an individual as a potential suspect in the case.

(b) Link an individual to the case as a potential suspect.

(c) Identify human remains.

510.7 COLLECTION OF THIRD-PARTY DNA SAMPLE

If it is determined that a third-party DNA sample (i.e., from a person not likely to be a suspect in the investigation) should be collected and analyzed for FGG, consent from the third party should be obtained prior to collection.

If there is a reasonable belief that the integrity of the investigation would be compromised by seeking consent from the third party prior to collection, the lead investigator should consult with the prosecutor regarding applicable laws and procedures in both the jurisdiction of the investigation and the jurisdiction where the collection will occur, if different.

The use of a third-party DNA sample shall be limited to the original underlying investigation.

510.8 POST-IDENTIFICATION

Members shall not rely solely on FGG identification of a potential suspect for probable cause to make an arrest or obtain an arrest warrant. Unless there is sufficient evidence independent of the FGG data to support an arrest, a potential suspect identified through FGG should not be arrested until the suspect's identity is confirmed.

Members shall not rely solely on FGG to identify human remains unless there is sufficient evidence independent of the FGG data to declare the identification or confirmation testing has been completed.

Confirmatory DNA testing should be conducted by collecting a known DNA sample from the potential suspect or, in the case of unidentified human remains, from a close biological relative. This known DNA sample should be submitted for comparison to the original unknown STR DNA profile through conventional methods (e.g., in CODIS).

The lead investigator should consult with the prosecutor to determine the appropriate method of obtaining a known DNA sample.

Once the identity of a suspect or the identity of unidentified human remains has been confirmed through conventional DNA testing, the lead investigator should:

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(a) Consult with the prosecutor to evaluate the entire investigative file for consideration of criminal charges or further investigation.

(b) If applicable, consult with the Coroner for an amendment to a certificate of death.

510.9 PRIVACY CONSIDERATIONS

Members should make reasonable efforts to respect and protect the privacy of non-suspect genetic relatives identified through the FGG process. The names and identifying information of any non-suspect genetic relatives should not be included in official reports, probable cause declarations, or affidavits for search warrants and should not be disclosed unless otherwise required by law or court order.

The lead investigator should formally request that the SNP DNA profile be removed from all genetic genealogy sites upon identity confirmation and should retain a copy of the request for bureau records. The lead investigator should request that all case-related records and data provided to, or generated by, a genetic genealogist during the FGG process be returned to the Bureau.

510.10 RETENTION OF DNA SAMPLES AND RELATED RECORDS

Genetic information, including any derivative profiles and genetic genealogy site user information, should be retained in accordance with the established records retention schedule. The lead investigator should coordinate with the xxxxx and provide adequate notice to the appropriate prosecutor's office before destroying any profiles or data obtained from the FGG process.

See the Property and Evidence Policy for guidelines regarding biological evidence, including DNA samples.

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Chapter 6 - Equipment

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Department Owned and Personal Property

600.1 PURPOSE AND SCOPE

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

600.2 CARE OF COUNTY PROPERTY

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

(a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any County issued property or equipment assigned for their use.

(b) The use of damaged or unserviceable County property should be discontinued as soon as practical and replaced with comparable County property as soon as available and following notice to a supervisor.

(c) Except when otherwise directed by competent authority or required by exigent circumstances, County 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) County property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.

(e) In the event that any County 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 on the proper form. This form is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

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

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief Investigator who will then forward the claim to the County Risk Manager.

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

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

Pursuant to Kern County Administrative Code § 318, 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 function, 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 Chief Investigator.

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Cellular Telephones

601.1 POLICY

The Kern County District Attorney's Office maintains cellular telephones for the purpose of enhancing the law enforcement mission and conducting official business when regular telephones are not readily available. Cellular telephones may also be utilized to provide superior communications in the management of field or special operations.

Employees assigned a cellular telephone shall ensure the safety of the equipment from theft, damage, and unauthorized use. Failure to care for cellular equipment may result in disciplinary action and reimbursement for the cost of its replacement or repair.

601.2 CELL PHONE ISSUANCE

As a general rule, a cellular telephone will be issued to Bureau personnel whose official duties necessitate the use of a cellular telephone.

601.2.1 PERSONAL TELEPHONE CALLS

Recognizing that circumstances exist where an employee may find it necessary to make or receive personal calls on cellular telephones maintained by the District Attorney's Office, the cost for such calls shall be paid by the employee according to the rate established by the cellular telephone company and multiplied by the elapsed time of the telephone call in accordance with County policy.

601.3 CERTIFICATION

Each month, the Auditor-Controller's Office posts a notice of all charges to each employee assigned to, or using a District Attorney's Office maintained cellular telephone. It shall be the responsibility of each affected employee to review Auditornet and certify his/her cellular telephone within 30 days of posting. The certification process is required on all cellular telephones.

601.3.1 BUSINESS USE ONLY

Employees using their assigned cellular telephone for business purposes only shall certify the use each month by selecting the appropriate radio button and completing the electronic signature.

601.3.2 PERSONAL CALLS

Employees making or receiving personal cellular telephone calls shall review the online statement each month and highlight all personal calls. The program will automatically tally the cost of the personal calls. The employee shall certify the use by selecting the appropriate radio button, choosing a payment option and completing the electronic signature.

601.3.3 FAILURE TO CERTIFY OR PAY

Employees failing to certify their cellular telephone or failing to reimburse the County for money owed, each month, may result in the revocation of authorization to use the cellular telephone and/or disciplinary action.

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601.4 DATA USAGE AND TEXT MESSAGING

Some cellular phones are associated with “data plans,” and/or have “text messaging” features available. These phones have fixed limits on the amount of data and the number of messages used per month. Employees shall be responsible for usage beyond the preset limits and will be asked to reimburse the District Attorney’s Office for the cost of overages.

- The Auditor-Controller generates a monthly “Exception Report” which includes the employee name, cellphone number, type of overage (data or messages), and cost of the overage.
- The Business Office will notify the indicated employee’s supervisor that there are overages. The supervisor, or his/her designee, will contact the employee.
- Employees will have 30 days from the date of notification to reimburse the District Attorney’s Office by check or payroll deduction.

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Vehicle Use

602.1 PURPOSE AND SCOPE

This policy establishes a system of accountability to ensure County owned vehicles are used appropriately. For the purposes of this policy, “County owned” includes any vehicle owned, leased or rented by the County.

Employees are responsible for assisting in maintaining Bureau of Investigation vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

602.2 POLICY

The Bureau of Investigation provides vehicles for official business use and may assign take home vehicles based on its determination of operational efficiency, economic impact to the County, tactical deployments and other considerations in accordance with existing County of Kern policy.

This policy is in addition to the District Attorney’s vehicle use policy and Chapters 11 and 12 of the Kern County Policy and Administrative Procedures manual.

602.3 USE OF VEHICLES

County owned vehicles shall only be used for official business and, when approved, for commuting to allow members to respond to department related business outside their regular work hours.

Members shall not operate a County owned vehicle at any time when impaired by drugs and/or alcohol.

Any member operating a vehicle equipped with a two-way communications radio, and/or a GPS device shall ensure the devices are on and set to an audible volume whenever the vehicle is in operation.

602.3.1 POOL VEHICLES

Members who use a pool vehicle as part of their work assignment shall ensure that the vehicle is properly checked out, according to current procedures, prior to taking it into service. If for any reason during the shift the vehicle is exchanged, the member shall ensure that the exchanged vehicle is likewise properly noted on the log.

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of use. 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.

602.3.2 UNSCHEDULED USE OF VEHICLES

Members utilizing a County owned vehicle for any purpose other than their regularly assigned duties shall first notify the Administrative Lieutenant of the reason for use. This section does not apply to members permanently assigned an individual vehicle, who regularly use the vehicle on an unscheduled basis as part of their normal assignment.

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602.3.3 AUTHORIZED PASSENGERS
Members operating County owned vehicles shall not permit persons other than County members or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as a passenger in their vehicle.

602.3.4 PARKING
Except when responding to an emergency or other urgent official business requires otherwise, members driving County owned vehicles should obey all parking regulations at all times.

602.3.5 INSPECTIONS
The interior of any vehicle that has been used to transport any person other than a member of the District Attorney's Office should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting investigator shall search all areas of the vehicle that are accessible by the person before and after the person is transported.

602.3.6 PRIVACY
All County owned 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.

602.3.7 ACCESSORIES AND/OR MODIFICATIONS
There shall be no modifications, additions or removal of any equipment or accessories without written permission from the assigned vehicle program manager.

602.3.8 CIVILIAN MEMBER USE
Civilian members using marked emergency vehicles shall ensure that all weapons have been removed before going into service. Civilian members shall prominently display the "out of service" placards or light bar covers at all times. Civilian members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

602.4 ASSIGNED VEHICLE AGREEMENT
Members who have been assigned a take home vehicle may use the vehicle to commute to the workplace and for department related business. The member must be approved for an assigned vehicle by the Administrative Lieutenant. Except as may be provided by a memorandum of understanding time spent during normal commuting is not compensable.

(a) County owned vehicles shall not be used for personal errands or other personal business unless approved by a supervisor for exceptional circumstances.

(b) The member may be responsible for the care and maintenance of the vehicle. The Department should provide necessary care and maintenance supplies.

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Members are cautioned that under federal and local tax rules, personal use of a County owned vehicle may create an income tax liability to the member. Members should address questions regarding tax consequences to their tax adviser.

The assignment of vehicles is at the discretion of the Chief Investigator. Assigned vehicles may be changed at any time and/or permission to take home a vehicle may be withdrawn at any time.

602.4.1 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 may be reassigned or utilized by other bureau members at the discretion of the Chief Investigator or the authorized designee.

602.4.2 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Kern County District Attorney's Office Bureau of Investigation 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.

602.4.3 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Bureau. 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 the assigned vehicle is maintained according to the established service and maintenance schedule.

(c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the bureau supervisor in charge of vehicle maintenance.

(d) The Bureau shall be notified of problems with the vehicle and approve any major repairs before they are performed.

(e) When leaving the vehicle at the maintenance facility, the member will complete a vehicle repair card explaining the service or repair, and leave it on the seat or dash.

(f) All weapons shall be removed from any vehicle left for maintenance.

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(g) Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

602.5 KEYS AND SECURITY

Members assigned a home retention vehicle should be issued keys for their assigned vehicle. The loss of any key shall be promptly reported in writing through the member's chain of command. Additionally, the following security measures shall be implemented:

- It is the employee's responsiblity to ensure the vehicle is parked and secured when not in use.
- Vehicles shall be locked when not attended.
- If the vehicle is not secured inside a locked garage, all firearms and kinetic impact weapons shall be removed from the interior of the vehicle and properly secured in the residence (See the Firearms Policy regarding safe storage or firearms at home).
- When the member will be away (e.g. on vacation) for periods exceeding one week the vehicle shall be stored at the County parking facility at the District Attorney's Office.
- All department related identification, door cards, credit cards, portable radios, and other equipment should be secured in the trunk of the vehicle.

602.6 DAMAGE, ABUSE AND MISUSE

When any bureau vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see the Traffic Collision Reporting Policy).

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 memorandum format and forwarded to the xxxxx. An administrative investigation should be initiated to determine if there has been any vehicle abuse or misuse.

602.7 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating a County owned vehicle upon the toll road shall adhere to the following:

(a) All members operating a County owned vehicle for any reason other than in response to an emergency shall pay the appropriate toll charge or utilize the appropriate toll way transponder. Members may submit a request for reimbursement from the County for any toll fees incurred in the course of official business.

(b) All members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, their supervisor within five working days explaining the circumstances.

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602.8 ATTIRE AND APPEARANCE

When operating any bureau vehicle while off-duty, members may 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.

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Personal Protective Equipment

603.1 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, as those issues are addressed in the Body Armor policy.

603.1.1 DEFINITIONS

Definitions related to this policy include:

Personal protective equipment (PPE) - Equipment that protects a person from serious workplace injuries or illnesses resulting from contact with chemical, radiological, physical, electrical, mechanical or other workplace hazards.

603.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation endeavors to protect members by supplying certain PPE to members as provided in this policy.

603.3 INVESTIGATOR RESPONSIBILITIES

Members are required to use PPE as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

Any member who identifies hazards in the workplace is encouraged to utilize the procedures in the Illness and Injury Prevention Policy to recommend new or improved PPE or additional needs for PPE.

603.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed the requirements provided in 8 CCR 5098.

603.5 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 Rangemaster shall ensure eye protection meets or exceeds the requirements provided in 8 CCR 3382.

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Military Equipment

604.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

604.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Bureau.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached.
- Tracked armored vehicles that provide ballistic protection to their occupants.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld, one-person ram.
- Firearms and ammunition of .50 caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than .50 caliber, including firearms and accessories identified as assault weapons in Penal Code § 30510 and Penal Code § 30515, with the exception of standard-issue firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools.
- Munitions containing tear gas or OC, excluding standard, service-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).
- Kinetic energy weapons and munitions.
- Any other equipment as determined by a governing body or a state agency to require additional oversight.

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604.2 POLICY

It is the policy of the Kern County District Attorney's Office Bureau of Investigation that members of this bureau comply with the provisions of Government Code § 7071 with respect to military equipment.

604.3 MILITARY EQUIPMENT COORDINATOR

The Chief Investigator should designate a member of this bureau to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

(a) Acting as liaison to the governing body for matters related to the requirements of this policy.

(b) Identifying bureau equipment that qualifies as military equipment in the current possession of the Bureau, or the equipment the Bureau intends to acquire that requires approval by the governing body.

(c) Conducting an inventory of all military equipment at least annually.

(d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Kern County District Attorney's Office Bureau of Investigation (Government Code § 7071).

(e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:

1. Publicizing the details of the meeting.
2. Preparing for public questions regarding the bureau’s funding, acquisition, and use of equipment.

(f) Preparing the annual military equipment report for submission to the Chief Investigator and ensuring that the report is made available on the bureau website (Government Code § 7072).

(g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Bureau will respond in a timely manner.

604.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the Bureau:

Military Equipment List

604.5 APPROVAL

The Chief Investigator or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment policy. As part of the approval process, the Chief Investigator or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the bureau website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

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(a) Requesting military equipment made available pursuant to 10 USC § 2576a.

(b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.

(c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.

(d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this bureau.

(e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.

(f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.

(g) Acquiring military equipment through any means not provided above.

604.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment should not be used by any other law enforcement agency or member in this jurisdiction unless the military equipment is approved for use in accordance with this policy.

604.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief Investigator or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief Investigator or the authorized designee should also make each annual military equipment report publicly available on the bureau website for as long as the military equipment is available for use. The report shall include all information required by Government Code § 7072 for the preceding calendar year for each type of military equipment in bureau inventory.

604.8 COMMUNITY ENGAGEMENT

Within 30 days of submitting and publicly releasing the annual report, the Bureau shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Bureau should discuss the report and respond to public questions regarding the funding, acquisition, or use of military equipment.

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Chapter 7 - Support Services

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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 and/or destroy property.

700.2 DEFINITIONS

Property - Includes all items of evidence, items taken for safekeeping and found property.

Evidence - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

Safekeeping - Includes the following types of property:

- Property obtained by the Bureau for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

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.

700.3.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. The Bureau of Investigation does not have a property room therefore it uses the Kern County Sheriff’s Office Property Room. Employees booking property/evidence in the Kern County Sheriff’s Office Property room shall observe the following Kern County Sheriff’s Office Policies:

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Kern County Sheriff's Office Policy Number	Title
J-1800	Property Storage/Retrieval
A-102	Forms, Terms and Definitions
B-100	Receiving and Booking of Property and Evidence: General
B-101	Narcotics – Receiving and Processing
B-102	Money: Currency and Coinage Receiving
B-103	Weapons: Receiving and Processing
B-104	Special Handling: Homicide and Sexual Assaults
B-105	Receiving Property: Allied Agencies
C-100	PRIMUS
D-100	Releasing of Evidence or Property: Official Use
E-100	Viewing of Evidence
F-100	Disposal, Release and Auction: Evidence and Property

700.3.2 DEPOSITING ARRESTEE CURRENCY

When depositing arrestee currency at the Kern County Sheriff's Office Central Receiving Facility (CRF) adhere to Kern County Sheriff's Office Training Bulletin 16-04. All arrestee money is to be entered into the TouchPay Intake Kiosk located in the Pre-receiving area at CRF, unless the currency is soiled, damaged, contaminated or counterfeit.

700.3.3 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

(a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or

(b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or

(c) The Automated Firearms System indicates that the firearm was reported lost or stolen.

1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Bureau has complied with the requirements of Penal Code § 33850 et seq.

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The Investigator shall ensure the Administrative Lieutenant is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Section Policy).

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Computers and Digital Evidence

701.1 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.

701.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Investigators should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

(a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.

(b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.

(c) If the computer is off, do not turn it on.

(d) If the computer is on, do not shut it down 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 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) Lodge 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.

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4. If it can be determined, how it was being used.

(i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

701.2.1 BUSINESS OR NETWORKED COMPUTERS

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Investigators should contact a 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.

701.2.2 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.

(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.

701.3 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.

(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.

701.4 SEIZING PERSONAL COMMUNICATION DEVICES

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.

701.5 DIGITAL EVIDENCE RECORDED BY INVESTIGATORS AND INVESTIGATIVE AIDES

Investigators and/or investigative aides handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

701.5.1 COLLECTION OF DIGITAL EVIDENCE

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

701.5.2 SUBMISSION OF DIGITAL MEDIA

The following are required procedures for the submission of digital media used by cameras or other recorders:

(a) The recording media (smart card, compact flash card or any other media) shall be booked for submission into evidence.

(b) Investigators are not authorized to review or copy memory cards. The evidence technicians are the only employees authorized to copy and/or distribute digital media made from the memory cards.

701.5.3 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

(a) Files should not be opened or reviewed prior to downloading and storage.

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(b) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

701.5.4 PRESERVATION OF DIGITAL EVIDENCE

(a) Only evidence technicians are authorized to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered.

(b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.

(c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

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Communication Operations

702.1 PURPOSE AND SCOPE

This policy establishes guidelines for the basic functions of the Communications Center. It addresses the immediate information needs of the Department in the course of its normal daily activities and during emergencies.

The Bureau does not manage a dispatch center. All radio communications and dispatch services are provided by the Kern Sheriff's Communications Center.

702.1.1 FCC COMPLIANCE

Kern County District Attorney's Office Bureau of Investigation radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and guidelines.

702.2 RADIO COMMUNICATIONS

Operations are more efficient and officer safety is enhanced when dispatchers, supervisors, and fellow investigators know the status of investigators, their locations and the nature of cases.

702.2.1 INVESTIGATOR IDENTIFICATION

Identification systems are based on factors such as investigator identification numbers. Employees should use the entire call sign when initiating communication with the dispatcher. The use of the call sign allows for a brief pause so that the dispatcher can acknowledge the appropriate unit. Employees initiating communication with other agencies shall use their entire call sign. This requirement does not apply to continuing conversation between the mobile unit and dispatcher once the mobile unit has been properly identified.

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Chapter 8 - Personnel

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Recruitment and Selection

800.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Kern County District Attorney's Office Bureau of Investigation and that are promulgated and maintained by the Personnel Department.

800.2 POLICY

In accordance with applicable federal, state, and local law, the Kern County District Attorney's Office Bureau of Investigation provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Bureau does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Bureau will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

800.3 RECRUITMENT

The Administration Division Chief shall employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy shall include:

(a) Establishment of a written recruitment plan.

1. The plan shall include an outline of steps for recruiting candidates who are representative of the community. This should include candidates who live in or are from the community, if appropriate and consistent with applicable laws and memorandums of understanding or collective bargaining agreements.

(b) Identification of racially and culturally diverse target markets.

(c) Use of marketing strategies to target diverse applicant pools.

(d) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive bureau website and the use of bureau-managed social networking sites, if resources permit.

(e) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.

(f) Employee referral and recruitment incentive programs.

(g) Consideration of shared or collaborative regional testing processes.

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The Administration Division Chief shall avoid advertising, recruiting, and screening practices that tend to stereotype, focus on homogeneous applicant pools, or screen applicants in a discriminatory manner.

The Bureau should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of their status in the recruiting process.

800.4 SELECTION PROCESS

The Bureau shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Bureau shall employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

(a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)

1. The personnel records of any applicant with prior peace officer experience in this state shall be requested from the appropriate law enforcement agency and reviewed prior to extending an offer of employment (Penal Code § 832.12).

2. This includes review of prior law enforcement employment information maintained by POST (Penal Code § 13510.9).

(b) Driving record

(c) Personal and professional reference checks

(d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.

(e) Information obtained from public internet sites

1. This review should include the identification of any activity that promotes or supports unlawful violence or unlawful bias against persons based on protected characteristics (e.g., race, ethnicity, national origin, religion, gender, gender identity, sexual orientation, disability).

(f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)

(g) Local, state, and federal criminal history record checks

(h) Lie detector test (when legally permissible) (Labor Code § 432.2)

(i) Medical and psychological examination (may only be given after a conditional offer of employment)

1. The Medical Suitability Declaration (POST form 2-363) provided by the evaluating physician shall be maintained in the candidate's background investigation file (11 CCR 1954).

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2. The Psychological Suitability Declaration (POST form 2-364) provided by the evaluator shall be maintained in the candidate's background investigation file (11 CCR 1955).

(j) Review board or selection committee assessment

(k) Relevant national and state decertification records, if available, including the National Decertification Index

(l) Any relevant information in the National Law Enforcement Accountability Database

800.4.1 VETERAN'S PREFERENCE

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran's preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

800.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Kern County District Attorney's Office Bureau of Investigation (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

800.5.1 REVIEW OF SOCIAL MEDIA SITES

All peace officer candidates shall be subject to a social media search for statements, postings, and/or endorsements made by the candidate that are relevant to suitability for peace officer employment, including bias-relevant information consistent with the requirements of 11 CCR 1955(d)(3) and any public expression of hate made in an online forum, as defined in Penal Code § 13680(g) (11 CCR 1953(e)(12)).

Due to the potential for accessing unsubstantiated, private, or protected information, the Adminstrative Lieutenant shall not require candidates to provide passwords, account information, or access to password-protected social media accounts (Labor Code § 980).

The Adminstrative Lieutenant should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches, and/or review information from social media sites to ensure that:

(a) The legal rights of candidates are protected.

(b) Material and information to be considered are verified, accurate, and validated.

(c) The Bureau fully complies with applicable privacy protections and local, state, and federal law.

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Regardless of whether a third party is used, the Adminstrative Lieutenantshould ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

800.5.2 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

800.5.3 RECORDS RETENTION

The background report and all supporting documentation shall be maintained according to the established records retention schedule and at a minimum as follows (Government Code § 12946; 11 CCR 1953):

(a) Reports and documentation for candidates hired by the Bureau shall be retained for the entire term of employment and a for a minimum of four years after separation from the Bureau.

(b) Reports and documentation for candidates not hired by the Bureau for a minimum of four years.

800.5.4 STATE NOTICES

If information disclosed in a candidate’s criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

800.5.5 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall include sections that summarize relevant Background Investigation Dimensions and include any findings of behaviors, traits, and/or attributes relevant to bias per the Bias Assessment Framework as described in the POST Background Investigation Manual. The report shall identify the data sources reviewed for the findings, regardless of weight given. The report shall include narrative information in the format described in 11 CCR 1953(g)(1). The report shall also include whether the candidate has engaged or is engaging in membership in a hate group, participation in hate group activity, or advocacy or public expressions of hate, pursuant to Penal Code § 13680 et seq. (11 CCR 1953).

The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation including relevant documentation of bias-related findings and documentation obtained through the social media search shall be included in the candidate's background investigation file (11 CCR 1953).

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The background investigator shall document proof of verification of qualification for peace officer appointment on the Verification of Qualification for Peace Officer Appointment form and forward to the Administration Division Chief for final review and submission to POST (11 CCR 1953).

The background investigation file shall be made available during POST compliance inspections (11 CCR 1953).

800.5.6 BACKGROUND INVESTIGATION UPDATE
A background investigation update may, at the discretion of the Chief Investigator, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Kern County District Attorney's Office Bureau of Investigation, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

800.5.7 INVESTIGATOR TRAINING
Background investigators shall complete POST-certified background investigation training prior to conducting investigations (11 CCR 1953; 11 CCR 1959).

800.5.8 CONFIDENTIAL POST RECORDS
Records released to the Bureau from POST that were previously withheld from the candidate by POST shall be kept confidential as provided in Penal Code § 13510.9.

800.6 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate’s qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

800.7 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; Penal Code § 13510.1; 11 CCR 1950 et seq.). Candidates

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will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Bureau and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Personnel Department should maintain validated standards for all positions.

800.7.1 STANDARDS FOR INVESTIGATORS

Candidates shall meet the minimum standards established by POST or required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

(a) Free of any felony convictions

(b) Be legally authorized to work in the United States under federal law

(c) At least 21 years of age except as provided by Government Code § 1031.4

(d) Fingerprinted for local, state, and national fingerprint check

(e) Good moral character as determined by a thorough background investigation (11 CCR 1953)

(f) High school graduate, passed the GED or other high school equivalency test, or obtained a two-year, four-year, or advanced degree from an accredited or approved institution

(g) Free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)

(h) Free of hate group memberships, participation in hate group activities, or advocacy of public expressions of hate within the previous seven years, and since 18 years of age, as determined by a background investigation (Penal Code § 13681)

(i) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):

1. Reading and writing ability assessment (11 CCR 1951)
2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)

(j) POST certification that has not been revoked, denied, or voluntarily surrendered pursuant to Penal Code § 13510.8(f)

(k) Not identified in the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training or similar federal government database that reflects revoked certification for misconduct or reflects misconduct that would result in a revoked certification in California.

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In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Bureau (Penal Code § 13510(d)).

800.8 PROBATIONARY PERIODS

The Administration Division Chief should coordinate with the Kern County District Attorney Personnel Department to identify positions subject to probationary periods and procedures for:

(a) Appraising performance during probation.

(b) Assessing the level of performance required to complete probation.

(c) Extending probation.

(d) Documenting successful or unsuccessful completion of probation.

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Reporting of Arrests, Convictions, and Court Orders

801.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the notification requirements and procedures that members must follow when certain arrests, convictions, and court orders restrict their ability to perform the official duties and responsibilities of the Kern County District Attorney's Office Bureau of Investigation. This policy will also describe the notification requirements and procedures that certain retired investigators must follow when an arrest, conviction, or court order disqualifies them from possessing a firearm.

801.2 DOMESTIC VIOLENCE CONVICTIONS AND COURT ORDERS

Federal and California law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing firearms. 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 and retired investigators with identification cards issued by the Bureau are responsible for ensuring that they have not been disqualified from possessing firearms 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.

801.3 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 a member'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.

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, and shall be reported as provided in this policy.

801.4 REPORTING

All members and all retired investigators with an identification card issued by the Bureau shall immediately notify their supervisors (retired investigators should immediately notify the xxxxx or the Chief Investigator) in writing of any past or current criminal detention, arrest, charge, or

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conviction in any state or foreign country, regardless of whether or not the matter was dropped or rejected, is currently pending or is on appeal, and regardless of the penalty or sentence, if any.

All members and all retired investigators with an identification card issued by the Bureau shall further promptly notify their supervisors (retired investigators should immediately notify the xxxxx or the Chief Investigator) in writing if they become the subject of a domestic violence-related order or any court order that prevents the member or retired investigator from possessing a firearm or requires suspension or revocation of applicable POST certification.

Any member whose criminal arrest, conviction, or court order restricts or prohibits that member from fully and properly performing their duties, including carrying a firearm, may be disciplined. This includes but is 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 the member's own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline, up to and including termination.

Retired investigators may have their identification cards rescinded or modified, as may be appropriate (see the Retiree Concealed Firearms Policy).

801.4.1 NOTIFICATION REQUIREMENTS

The Administration Division Chief shall submit within 10 days of final disposition a notice to 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).

801.5 POLICY

The Kern County District Attorney's Office Bureau of Investigation requires disclosure of member arrests, convictions, and certain court orders to maintain the high standards, ethics, and integrity in its workforce, and to ensure compatibility with the duties and responsibilities of the Bureau.

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Drug- and Alcohol-Free Workplace

802.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

802.2 POLICY

The Kern County District Attorney's office Bureau of Investigation has a duty and responsibility to provide all its employees with a healthy, safe, and drug free work environment. The Kern County District Attorney's Office further has a duty to the residents of Kern County to have its employees perform their duties without impairment, due to abuse of controlled substances and or alcohol.

The Kern County District Attorney's Office has determined that pre-employment, reasonable suspicion, and random drug testing is necessary to accomplishing its compelling governmental interests of maintaining public safety and law and order in the community. Therefore, the Kern County District Attorney's Office Bureau of Investigation shall conduct pre-employment, reasonable suspicion, and random drug testing of applicants and sworn employees.

Employees who have a positive result from a drug, or alcohol analysis may be subject to appropriate disciplinary action up to and including termination of employment.

802.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on bureau time can endanger the health and safety of bureau members and the public.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the xxxxx or appropriate supervisor as soon as the member is aware that the member will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, the member shall be immediately removed and released from work (see the Work Restrictions section in this policy).

802.3.1 MEDICAL CANNABIS

Possession, use, or being under the influence of medical cannabis on-duty is prohibited and may lead to disciplinary action.

802.4 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Bureau will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

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802.5 CONFIDENTIALITY

The Bureau recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the member's confidential medical file in accordance with the Personnel Records Policy.

802.6 DRUG TESTING

Any employee witnessing a possible violation of this policy shall immediately report the suspected violation to their immediate supervisor. If the possible violation is by the immediate supervisor, the witnessing employee shall immediately report the violation to the Chief Investigator, the Chief Deputy District Attorney, the Assistant District Attorney or the District Attorney.

802.6.1 REASONABLE SUSPICION DRUG TESTING

Supervisors may request that an employee submit to a drug or alcohol test when a supervisor has a reasonable suspicion, based on articulable facts, that an employee is under the influence of drugs or alcohol while on the job or on stand-by.

802.6.2 DEFINITIONS

“Reasonable suspicion” is a belief based on objective facts sufficient to lead a supervisor to suspect that an employee is under the influence of drugs or alcohol such that the employee’s ability to perform the functions of the job is impaired or the employee’s ability to perform his/her job safely is reduced.

Any of the following, alone or in combination, may create reasonable suspicion:

(a) Slurred or incoherent speech;

(b) The odor of an alcoholic beverage on the breath;

(c) Unsteady walking and movement;

(d) An accident involving County property;

(e) Unusual appearance (e.g. glassy or bloodshot eyes);

(f) Unusual or irrational behavior;

(g) Possession of alcohol or drugs;

(h) Information received from a reliable person with personal knowledge.

802.7 DOCUMENTATION

The supervisor requesting an employee to submit to a drug or alcohol test shall document in writing, the facts which caused their reasonable suspicion that the employee in question was intoxicated or under the influence of drugs. A full and complete report in memorandum format addressed to the Chief Investigator documenting the incident shall be completed within 24 hours of

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the incident. This documentation shall be maintained by the Chief Investigator for use if disciplinary or legal action becomes necessary.

Testing may be done on an employee only when there is reasonable suspicion, based on articulable facts that:

(a) The employee is under the influence, or otherwise engaging in the use, possession, transport, purchase, sale, or other distribution of alcohol, or any controlled substance while on duty;

(b) The employee has violated the Alcohol and Drug Abuse policy as contained in the Kern County Administrative Policy and Procedures Manual and/or this policy governing reporting to work under the influence of a prescribed medication;

(c) The employee has violated District Attorney's Office Bureau of Investigation policies governing being under the influence of, or otherwise engaging in the use, possession, purchase, or sale of alcohol or controlled substances, while on duty.

An employee may request testing if he has been exposed to a controlled substance capable of being involuntarily absorbed into the body, including those situations in which an employee believes he or she has been contaminated.

802.7.1 SUPERVISOR RESPONSIBILITIES

Any supervisor who becomes aware of any of the above will:

(a) In all cases where the employee is under the influence, or possibly under the influence of prescribed medication, alcohol, or controlled substances:

1. Keep employee in location away from public and other employees;
2. Maintain intermittent observation of the employee;

(b) If accidental exposure, take steps necessary to protect the employee's health and safety;

(c) For possible prescribed medication, or controlled substances violations, obtain a blood or urine sample in accordance with accepted drug influence evaluation techniques.Any sample obtained will be processed and submitted in accordance with the Kern County District Attorney's Crime Lab procedures and District Attorney's Office procedures for booking evidence.

(d) If the employee is suspected of being under the influence of alcohol, the employee shall submit to a Preliminary Alcohol Screening Test. A trained operator at the direction of a supervisor will conduct the test. This test will be for administrative purposes only;

(e) If the employee's off-duty conduct violates District Attorney's Office policy and/or law:

1. Prepare written report in memo form and forward to the Chief Investigator;

(f) If immediate action is necessary to protect the public, or employee's health and safety, follow steps as if on duty;

(g) If the employees on duty conduct violates District Attorney's Office policy and/or law:

1. Notify the Chief Investigator immediately;

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2. Take steps necessary to protect public and employee's health and safety.

For the purpose of determining whether an employee is under the influence the District Attorney has adopted the quantitative drug levels listed in the County of Kern Alcohol and Drug Policy, Exhibit C ("Reasonable Suspicion Screen").These quantitative drug levels are for administrative purposes only.

If the employee's actions are suspected to be criminal in nature, a Lieutenant or Chief Investigator upon receiving such information will:

(a) Assign an appropriate investigator from this Office or any other law enforcement agency in the State of California to investigate the incident.

The assigned investigator will:

(a) Investigate the matter following accepted narcotics investigation techniques;

(b) If probable cause does not exist and no criminal case can be pursued, send the investigative package through the chain of command to the District Attorney.

The assigned investigator for possible alcohol related criminal activity will:

(a) Investigate the matter following accepted investigation techniques.

In all cases alleging violations of this section:

(a) An Internal Affairs Investigation will be initiated.

In all such cases, the assigned Internal Affairs investigator will:

(a) Conduct a thorough investigation following accepted and lawful Internal Affairs investigation practices.

If a drug screen is positive, the employee must provide, within 24 hours of request, proof of a current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable proof of a prescription, or if the prescription is not in the employee's name, or if the employee has not previously told his or her supervisor of potential impairment due to use of medication, the employee will be subject to disciplinary action, up to and including termination of employment.

802.8 RANDOM DRUG/ALCOHOL TESTING

Per this policy, the Chief Investigator, Lieutenant Investigators, and Investigator I/II/III are subject to random drug testing.There will be (2) two random selection processes conducted per calendar year at the discretion of the District Attorney. All of the personnel subject to this policy will be placed into one group and from that group 2 individuals will be selected. Members subject to testing may be ordered to submit to a drug test whenever randomly selected, up to (2) two times in a twelve (12) month period.

Employees will be subject to random, unannounced drug and alcohol testing. The selection of employees for random drug and alcohol testing shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety employees. Under

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the selection process used, each covered employee shall have an equal chance of being tested each time selections are made. (The County's random selection process company will be utilized for this purpose).

Random drug/alcohol tests conducted under this policy are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed. A covered employee shall only be randomly tested for drug/alcohol misuse while the employee is performing their duties. A covered employee may be randomly tested for prohibited drug and alcohol use anytime while on duty. A selected employee will be notified of the test at the beginning of their work shift and depending on the employee's work schedule, a selected employee will have four (4) hours to respond to National Toxicology Laboratories or a County approved vendor upon being notified of the test.

This test will be for administrative purposes only.

Employees are reminded that a refusal to obey a lawful order to cooperate will be treated as insubordination and will subject the offender to disciplinary action up to and including dismissal from employment.

802.9 TESTING FOLLOWING MOTOR VEHICLE ACCIDENT

Employees shall submit to blood alcohol content testing (by breath, blood or urine test) and controlled substance testing (by blood or urine test) following any motor vehicle accident in a county vehicle or in the course and scope of Kern County District Attorney's Office business if:

1. The investigating law enforcement agency requests testing during their investigation.
2. The supervisor has reasonable suspicion of impairment.

802.10 DRUGS/DRUG GROUPS TESTED FOR

All drug testing conducted by the District Attorney's Office Bureau of Investigation will be capable of detecting at least the following drugs or drug groups at the listed screening and confirmation levels (in NG/ML by each method). This is not to exclude other drugs as contained in the Alcohol and Drug abuse policy as contained in the Kern County Administrative Policy and Procedures manual or any Memorandum of Understanding existing between the above listed law enforcement bargaining units and the County of Kern.

Drug	Confirmation	Screening
• AMPHETAMINES	300	260
Amphetamine/ Methamphetamine		
MDMA/MDA (Ecstasy)	1000	260
BARBITURATES	300	100
Amobarbital		

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	Boutalbarbital		
	Butalbital		
	Pentobarbital		
	Phenobarbital		
	Secobarbital		
BENZODIAZEPINES		300	100
CANNABINOIDS		20	10
	Marijuana (THC)		
COCAINE		300	150
	Benzoylacognine		
OPIATES		300	150
	Codeine/ Morphine		
	Heroin		
	Hydrocodone/ Hydromorphone		
METHADONE		300	100
METHAQUALONE		300	300
PHENCYCLIDINE		25	25
PROPOXYPHENE		300	300
	Norpropoxyphene		
OXYCODONE		100	100

802.10.1 CONFIRMATORY TEST

- All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry techniques. All confirmations shall be by quantitative analysis. Concentrations, which exceed the linear region of the standard curve, shall be documented in the laboratory record as “greater than highest standard curve value.”

802.11 RETEST PROCEDURES

Investigators who test positive for one or more drugs will be given the opportunity to have a portion of the sample (blood or urine) retested by another laboratory as specified in Schedule D section 10.0 (Drug Testing Procedures) of the County of Kern Alcohol and Drug Abuse Policy.

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Personnel Complaints

803.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Kern County District Attorney's Office Bureau of Investigation. 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.

803.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation 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.

803.3 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.

803.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the 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 a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Chief 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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803.3.2 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.

803.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

803.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the bureau facility and be accessible through the District Attorney website. Forms may also be available at other County facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

Attachment: Citizen Complaint Procedure

803.4.2 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).

803.4.3 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).

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803.4.4 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 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).

803.5 DOCUMENTATION

Supervisors shall ensure that all formal 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 Chief Investigator or the authorized designee.

803.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

803.6.1 SUPERVISOR RESPONSIBILITIES
In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief Investigator or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
  - (a) The original complaint form will be directed to the Chief Investigator, 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 Chief Investigator, who will initiate appropriate action.
- (b) Responding to all complainants in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  - (a) Follow-up contact with the complainant should be made within 24 hours of the Bureau receiving the complaint.

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(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.

(d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Chief Investigator is notified via the chain of command as soon as practicable.

(e) Promptly contacting the County of Kern Personnel Department 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.

803.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Professional Standards unit, 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 Kern County District Attorney's Office Bureau of Investigation 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.

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(g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.

1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

(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).

803.6.3 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.

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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.

803.6.4 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

803.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

803.6.6 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.

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803.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, with the member’s consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

803.7.1 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

803.8 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 Chief Investigator or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

(a) May be required to relinquish any 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 during the investigation. The employee may be required to remain available for contact at all times during their normal shift, and will report as ordered.

803.9 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.

803.10 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).

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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 theDistrict 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.

803.11 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

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).

803.12 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief Investigator shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief Investigator may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The Kern County District Attorney's Office Bureau of Investigation 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.

803.13 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief Investigator through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief Investigator may accept or modify any classification or recommendation for disciplinary action.

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803.13.1 CHIEF INVESTIGATOR RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Chief Investigator 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 Assistant District Attorney, the Chief Investigator may return the entire investigation to the assigned investigator for further investigation or action.

When forwarding any written recommendation to the Assistant 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.

803.13.2 ASSISTANT DISTRICT ATTORNEY RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Assistant District Attorney shall review the recommendation and all accompanying materials. The Assistant District Attorney may modify any recommendation and/or may return the file to the Chief Investigator for further investigation or action.

Once the Assistant District Attorney is satisfied that no further investigation or action is required by staff, the Assistant District Attorney shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Assistant 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 Assistant District Attorney shall also provide the member with:

(a) Access to all of the materials considered by the Assistant District Attorney in recommending the proposed discipline.

(b) An opportunity to respond orally or in writing to the Assistant District Attorney within five days of receiving the notice.

1. Upon a showing of good cause by the member, the Assistant 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 Department. 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 Assistant District Attorney shall consider all information received in regard to the recommended discipline. The Assistant 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 Assistant District Attorney has issued a written decision, the discipline shall become effective.

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803.13.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT
The Chief Investigator or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(f)).

803.13.4 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)).

803.14 PRE-DISCIPLINE EMPLOYEE RESPONSE

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

(a) The response is not intended to be an adversarial or formal hearing.

(b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.

(c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief Investigator to consider.

(d) In the event that the Chief Investigator elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.

(e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief Investigator on the limited issues of information raised in any subsequent materials.

803.15 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).

803.16 REQUIRED REPORTING TO POST

The Chief Investigator 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.

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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 serious misconduct (as defined by Penal Code § 13510.8).
2. Findings of civilian review boards.
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 Kern County District Attorney's Office Bureau of Investigation based on allegations of conduct by an investigator.

The Chief Investigator 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) within the applicable timeframe provided in Penal Code § 13510.9.

803.16.1 NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT

The Chief Investigator or the authorized designee shall report allegations of serious misconduct by an investigator to POST and the report shall include the following (11 CCR 1207):

(a) Name of the Bureau

(b) Administrative case number

(c) Name, current address, and phone number of the complainant, if available

(d) Name, POST ID, current address, and phone number of the involved investigator

(e) A summary of the alleged misconduct including:

1. A narrative of the allegations
2. Date and time of incidents
3. Location of occurrence
4. Any witness information, if available
5. Summary of arrest or indictment of involved investigator

(f) A change in employment status of the involved investigator (e.g., administrative leave, suspension, termination)

(g) Name and contact information of the assigned investigator

The Chief Investigator or the authorized designee shall provide updates of the investigation to POST every 90 days until the final disposition in the method designated by POST (11 CCR 1207).

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Upon completion of the investigation, the Chief Investigator or the authorized designee shall submit to POST the final disposition of the investigation as well as investigation materials and the investigator's service record as provided by 11 CCR 1207.

803.16.2 ADDITIONAL NOTIFICATIONS TO POST FOR SERIOUS MISCONDUCT
Additional notification shall be made to POST (11 CCR 1207):

(a) If the imposed disciplinary action is pending appeal or other review through an administrative or judicial proceeding:

1. The Bureau shall provide the name of the body conducting the proceeding.
2. The status of the proceeding, if known.

(b) If criminal charges are pending:

1. The name of the court having jurisdiction over the criminal charges against the investigator.
2. The status of the criminal case, if known.

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Smoking and Tobacco Use

804.1 PURPOSE AND SCOPE

This policy establishes limitations on the use of tobacco products by employees and others while on-duty or while in Kern County District Attorney's Office Bureau of Investigation facilities or vehicles.

804.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation recognizes that tobacco use is a health risk and can be offensive to other employees and to the public.

The County of Kern has established policies regarding smoking and the use of tobacco. Refer to the County Administrative Rules and Policy for further information.

804.3 EMPLOYEE USE

Tobacco use by employees is prohibited anytime employees are in public view representing the Bureau.

Smoking and the use of other tobacco products is not permitted inside any County facility, office or vehicle (California Labor Code § 6404.5).

It shall be the responsibility of each employee to ensure that no person under his/her supervision smokes or uses any tobacco product inside County facilities and vehicles.

804.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit, or operable window of any public building (including any County facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement, or any other purpose (Government Code § 7596 et seq.).

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Seat Belts

805.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in bureau vehicles (Vehicle Code § 27315.5).

805.1.1 DEFINITIONS

Definitions related to this policy include:

Child restraint system - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

805.2 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this bureau while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

805.3 TRANSPORTING PERSONS IN CUSTODY

Persons who are in custody should be in a seated position and secured in the rear seat of any bureau vehicle with a restraint system or, when a restraint system is not available, by seat belts provided by the vehicle manufacturer. The restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

An incarcerated person in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

805.4 INOPERABLE SEAT BELTS

Bureau vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Bureau vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief Investigator.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

805.5 POLICY

It is the policy of the Kern County District Attorney's Office Bureau of Investigation that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

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805.6 TRANSPORTING CHILDREN

Children under the age of 8 shall be transported in compliance with California's child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

805.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

805.8 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

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Body Armor

806.1 PURPOSE AND SCOPE

The purpose of this policy is to provide bureau personnel with guidelines for the proper use of body armor.

806.2 POLICY

It is the policy of the Kern County District Attorney's Office Bureau of Investigation to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

806.3 ISSUANCE OF BODY ARMOR

The Administration Lieutenant shall ensure that body armor is issued to all investigators when the investigator begins service at the Kern County District Attorney's Office Bureau of Investigation and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Administration Lieutenant shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

806.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

(a) Investigators shall only wear agency-approved body armor.

(b) Investigators shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.

(c) Investigators may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.

(d) Body armor shall be worn when an investigator is working in uniform.

(e) An investigator may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

806.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

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806.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

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

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

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

806.4 ADMINISTRATIVE LIEUTENANT RESPONSIBILITIES

The Administrative Lieutenant in conjunction with the Rangemaster should:

(a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.

(b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.

(c) Provide training that educates investigators about the safety benefits of wearing body armor.

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Personnel Records

807.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

807.2 POLICY

It is the policy of this bureau to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7).

807.3 BUREAU FILE

The bureau file shall be maintained as a record of a person’s employment/appointment with this bureau. The bureau file should contain, at a minimum:

(a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.

(b) Election of employee benefits.

(c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.

(d) Original performance evaluations. These should be permanently retained.

(e) Discipline records, including copies of sustained personnel complaints (see the Personnel Complaints Policy).

1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least four years (Government Code § 12946).

2. Disciplinary action resulting from a sustained civilian's complaint involving misconduct shall be maintained pursuant to the established records retention schedule and at least 15 years (Penal Code § 832.5).

3. A civilian’s complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).

(f) Adverse comments such as supervisor notes or memos may be retained in the bureau file after the member has had the opportunity to read and initial the comment (Government Code § 3305).

1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).

2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).

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3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment and the member should sign or initial the noted refusal. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).

(g) Commendations and awards.

(h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

807.4 SECTION FILE

Section files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Section file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code § 3305 and Government Code § 3306.

807.5 TRAINING FILE

An individual training file shall be maintained by the Administrative Lieutenant for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

(a) The involved member is responsible for providing the Administrative Lieutenant or immediate supervisor with evidence of completed training/education in a timely manner.

(b) The Administrative Lieutenant or supervisor shall ensure that copies of such training records are placed in the member’s training file.

807.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Internal Affairs Unit in conjunction with the office of the Chief Investigator. Access to these files may only be approved by the Chief Investigator or the Internal Affairs Unit supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

(a) Not sustained

(b) Unfounded

(c) Exonerated

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Investigation files arising out of sustained civilian's complaints involving misconduct shall be maintained pursuant to the established records retention schedule and for a period of at least 15 years. Investigations that resulted in other than a sustained finding may not be used by the Bureau to adversely affect an employee's career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least four years (Government Code § 12946).

Investigation files arising out of a civilian complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and for at least five years (Penal Code § 832.5).

807.7 MEDICAL FILE

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

(a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).

(b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.

(c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.

(d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.

(e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

807.8 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the County Counsel or other attorneys or representatives of the County in connection with official business.

807.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

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The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

807.8.2 RELEASE OF PERSONNEL INFORMATION

Personnel records are confidential and shall not be disclosed except as allowed by law. Nothing in this section is intended to preclude review of personnel files by the County Counsel or other attorneys or representatives of the County in connection with official business (Penal Code § 832.7; Evidence Code § 1043) (See also Records Maintenance and Release Policy).

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this bureau may be guilty of a misdemeanor (Penal Code § 146e).

The Bureau may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7).

807.8.3 RELEASE OF LAW ENFORCEMENT GANG INFORMATION

Information relating to the termination of an investigator from this bureau for participation in a law enforcement gang shall be disclosed to another law enforcement agency that is conducting a pre-employment background investigation except where specifically prohibited by law (Penal Code § 13670).

807.8.4 RELEASE OF PEACE OFFICER RECORDS RELATING TO HATE COMPLAINTS

Records relating to an investigator for an investigation of a hate complaint described in Penal Code § 13682 with a sustained finding that the investigator engaged in membership in a hate group, participated in a hate group activity, or advocacy of public expressions of hate are not confidential and shall be made available for public inspection though a public records request (Penal Code § 13683).

Records disclosed may be redacted as provided in Penal Code § 13683.

807.9 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF INVESTIGATORS

Personnel records and records related to certain incidents, complaints, and investigations of investigators shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

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The Custodian of Records should work as appropriate with the Chief Investigator or the Internal Affairs Unit supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(3):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an investigator in connection with an incident, whether the investigator's action was consistent with law and bureau policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(8) or other law, the following records (hereinafter qualifying records) shall be made available for public inspection no later than 45 days from the date of a request (Penal Code § 832.7(b)(1)):

(a) Records relating to the report, investigation, or findings of:

1. The discharge of a firearm at another person by an investigator.
2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by an investigator.
3. A sustained finding involving a complaint that alleges unreasonable or excessive force.
4. A sustained finding that an investigator failed to intervene against another investigator using force that is clearly unreasonable or excessive.

(b) Records relating to an incident where a sustained finding was made by the Bureau or oversight agency regarding:

1. An investigator engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
2. Dishonesty of an investigator relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another investigator, including but not limited to any false

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statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.

3. An investigator engaged in conduct including but not limited to verbal statements, writings, online posts, recordings, and gestures involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
4. An investigator made an unlawful arrest or conducted an unlawful search.

Qualifying records will be made available regardless of whether the investigator resigns before the Bureau or an oversight agency concludes its investigation (Penal Code § 832.7(b)(3)).

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(4)).

When an investigation involves multiple investigators, the Bureau shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an investigator unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(5). However, factual information about the action of the investigator during an incident or the statements of an investigator shall be released if the statements are relevant to a finding of the qualified allegation against another investigator that is subject to release (Penal Code § 832.7(b)(5)).

807.9.1 REDACTION

The Custodian of Records, in consultation with the Chief Investigator or authorized designee, shall redact the following portions of qualifying records made available for release (Penal Code § 832.7(b)(6)):

(a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of investigators

(b) Information that would compromise the anonymity of whistleblowers, complainants, victims, and witnesses

(c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force

(d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the investigator or another person

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(7)).

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807.9.2 DELAY OF RELEASE

Unless otherwise directed by the Chief Investigator, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of qualifying records due to any of the following conditions (Penal Code § 832.7):

(a) Active criminal investigations

1. Disclosure may be delayed 60 days from the date the misconduct or use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.

2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an investigator or against someone other than an investigator who engaged in misconduct or used the force.

(b) Filed criminal charges

1. When charges are filed related to an incident in which misconduct occurred or force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.

(c) Administrative investigations

1. Disclosure may be delayed until:

(a) There is a determination from the investigation whether the misconduct or use of force violated law or bureau policy, but no longer than 180 days after the date of the bureau’s discovery of the misconduct or use of force or allegation of misconduct or use of force

807.9.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of qualifying records, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

(a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.

(b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.

1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:

(a) When the criminal proceeding is against someone other than an investigator and there are extraordinary circumstances to warrant a

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continued delay due to the ongoing criminal investigation or proceeding, then the Bureau must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about misconduct or use of force by investigators.

In cases where an action to compel disclosure is brought pursuant to Government Code § 7923.000, the Bureau may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(8)).

807.10 MEMBERS' ACCESS TO THEIR PERSONNEL RECORDS

Any member may request access to the member's own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from the member's personnel records shall file a written request to the Chief Investigator through the chain of command. The Bureau shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member’s request and the written response from the Bureau shall be retained with the contested item in the member’s corresponding personnel record (Government Code § 3306.5).

Members may be restricted from accessing files containing any of the following information:

(a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.

(b) Confidential portions of internal affairs files that have not been sustained against the member.

(c) Criminal investigations involving the member.

(d) Letters of reference concerning employment/appointment, licensing, or issuance of permits regarding the member.

(e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.

(f) Materials used by the Bureau for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments, or other comments or ratings used for department planning purposes.

(g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

(h) Records relevant to any other pending claim between the Bureau and the member that may be discovered in a judicial proceeding.

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807.11 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

(a) During the preparation of each member’s performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.

(b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief Investigator.

(c) If, in the opinion of the Chief Investigator, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

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Outside Employment

808.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for bureau employees engaging in outside employment, all employees shall obtain written approval from the Chief Investigator and District Attorney prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief Investigator and District Attorney in accordance with the provisions of this policy.

808.1.1 DEFINITIONS

Outside Employment - Any member of the Bureau who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with the Bureau for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with the Bureau for services, product(s) or benefits rendered.

Outside Overtime - Any member of the Bureau who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through the Bureau so that the District Attorney's Office may be reimbursed for the cost of wages and benefits.

808.2 OBTAINING APPROVAL

No member of the Bureau of Investigation may engage in any outside employment without first obtaining prior written approval of the District Attorney. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Form which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through channels to the District Attorney for consideration.

If approved, the employee will be provided with a copy of the approved permit. Unless otherwise indicated in writing on the approved permit, a permit will be valid through the end of the calendar year in which the permit is approved. Any employee seeking to renew a permit shall submit a new Outside Employment Application in a timely manner.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

808.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the District Attorney within ten days of the date of denial.

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If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

808.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS
Any outside employment permit may be revoked or suspended under the following circumstances:

(a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief Investigator may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit

(b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline

(c) If, at any time during the term of a valid outside employment permit, an employee’s conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked

(d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status

808.3 PROHIBITED OUTSIDE EMPLOYMENT
Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

(a) Involves the employee’s use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage

(b) Involves the employee’s receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee’s duties as a member of this department

(c) Involves the performance of an act in other than the employee’s capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department

(d) Involves time demands that would render performance of the employee’s duties for this department less efficient

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808.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief Investigator in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department.

(a) The applicant will be required to enter into an indemnification agreement prior to approval.

(b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.

(c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:

1. The investigator(s) shall wear the departmental uniform/identification.
2. The investigator(s) shall be subject to the rules and regulations of this department.
3. No investigator may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
5. Outside security services shall not be subject to the collective bargaining process.
6. No investigator may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief Investigator.

808.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

808.4 DEPARTMENT RESOURCES

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee’s position with this department.

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808.4.1 REVIEW OF FINANCIAL RECORDS
Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to the Revocation/Suspension of Outside Employment Permits section of this policy.

808.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief Investigator through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief Investigator any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

808.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor’s orders, and make a recommendation to the Chief Investigator whether such outside employment should continue.

In the event the Chief Investigator determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

(a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the County's professional medical advisors.

(b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.

(c) The employee’s failure to make timely notice of their intentions to their supervisor.

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When the disabled member returns to full duty with the Kern County District Attorney's Office Bureau of Investigation, a request (in writing) may be made to the Chief Investigator to restore the permit.

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Personal Appearance Standards

809.1 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.

809.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the Chief Investigator has granted exception.

809.2.1 HAIR

Hairstyles of all personnel shall be clean and neat in appearance. For all male personnel, hair must not extend below the top edge of the shirt collar while assuming a normal stance. The hair shall not cover more than the top one-half of the ear.

For all female personnel, hair must be clean, neatly groomed and trimmed. The hair style and/or color shall not be unusual or bizarre. Hair will not be worn in a manner which will jeopardize the safety to the employee or cause a hindrance in the performance of their duties.

809.2.2 MUSTACHES

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. Waxed ends or points shall not be allowed.

809.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

809.2.4 BEARDS AND GOATEES

Beards must be neatly trimmed, may not be more than one inch thick and may not extend more than one inch from the tip of the chin/jaw line back toward the neck. The neck will be clean shaven.

Goatees include a full mustache that must extend in a straight vertical line down to the beard. Goatees may not be more than 1/2 inch long and may not extend more than 1" from the tip of the chin/jaw line back toward the neck. The neck will be clean shaven.

Soul patches and Fu Manchu mustaches are prohibited.

809.2.5 FINGERNAILS

Fingernails shall be clean and trimmed. Fingernails shall not extend beyond the tip of the finger in excess of 1/8th inch. Nails in excess of this length can pose a safety hazard to Investigators or others.

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Females:

- Fingernail polish, if worn, shall not be of a color which would draw abnormal attention to you.
- The wearing of ceramic or gel overlays on the fingernails is permitted if they conform to the above described standards.

809.2.6 JEWELRY AND ACCESSORIES
Jewelry may be worn, but should not hinder or disrupt your daily duties.

Sworn Personnel:
The following items of jewelry are not authorized:

- No visible body piercing, earrings, eyebrow, nose, or tongue studs.
- Female personnel may wear pierced stud earrings; however are limited to two earrings per ear, stud-type not to exceed 1/4" diameter and must be conservative in appearance.
- No dental art, decals,inlaid rings, stones or other adornments or designs on the teeth are permitted.

Non-Sworn Personnel:
The following items of jewelry are not authorized:

- No visible body piercing, earrings, eyebrow, nose, or tongue studs.
- Female personnel may wear pierced stud earrings; however are limited to two earrings per ear, stud-type not to exceed 1/4" diameter and must be conservative in appearance.Only one conservative clip-on earring per ear.
- No dental art, decals,inlaid rings, stones or other adornments or designs on the teeth are permitted.

809.3 TATTOOS
While on-duty or representing the Bureau in any official capacity, every reasonable effort should be made to conceal tattoos, other body art, branding, scarification, dermal punching or body implants. For purposes of this policy, body implants means objects inserted beneath the skin of the hands, arms, head, face, neck, upper chest or ears resulting in a visible protrusion of the skin outlining the object. Dermal punching is the removal of tissue for the insertion of jewelry or other objects.

At no time while on-duty or representing the Bureau in any official capacity, shall any offensive tattoo or body art be visible. Examples of offensive tattoos would include, but not be limited to, those which depict racial, sexual, discriminatory, gang related, or obscene language.

Facial tattoos, whether covered or not, are prohibited.

Permanent, conservative eyebrow or lip liner cosmetic tattoos are acceptable for female personnel.

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809.4 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.

809.5 CLOTHING

The Kern County District Attorney’s Bureau of Investigation desires to continue to maintain a reputation of professionalism. A component of professionalism for the members of the Bureau is appearance.

809.5.1 MALE EMPLOYEES

Daily Wear:

(a) Business style suites or slacks with sports coats should be worn when out of the office during office hours.

(b) Ties and long sleeve shirts are mandatory, whether or not the employee expects to be in court or have dealings with the public.

(c) Appropriate business style accessories and footwear shall be worn.

(d) There is no exception for summer weather.

(e) Uniform regulations are covered in the "Uniform Regulations" policy.

809.5.2 FEMALE EMPLOYEES

Sworn Staff:

(a) Business style suits or slacks along with appropriate business style accessories and footwear should be worn during office hours.

(b) Appropriate hosiery shall be worn at all times.

(c) Uniform regulations are covered in the "Uniform Regulations" policy.

Non Sworn Staff:

(a) Business-style suits, dresses, skirts, or slacks should be worn during office hours.Shorts, leggings, stirrup pants, denim or denim-like material, pants with patch pockets, capris or any other clothing deemed inappropriate by management, are not acceptable office attire, nor are strapless or spaghetti strap blouses, casual tee shirts or casual knit pant-sets.Split skirts or skorts are acceptable only if they are part of a business-style ensemble.Appropriate hosiery shall be worn at all times.

(b) Business-style accessories and footwear should be worn.No flip-flops, casual sandals, or athletic shoes will be worn without permission of a supervisor.

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Summer wear:

The above Dress Code guidelines apply with the following additions and exceptions:

Capris

(a) Capri pants come in three acceptable styles:

1. Mid-calf (3-4 inches below the knee).
2. Ankle length.
3. Full length.

(b) No hosiery will be required when wearing capris.

(c) Mid-calf capris must be at least 3 to 4 inches below the bottom of the knee.

(d) Capri pants may be worn if they are loose around the legs and knees, and are a part of a business-type suit or ensemble.No tight Capri pants that look like Bermuda shorts which fall at the knee or just below the knee are allowed.

(e) No hosiery will be required with long pants, pants that are 2 inches above the ankle or with the above-mentioned capris.

(f) Appropriate hosiery will be worn with all dresses, suits or above mid-calf skirts.Hosiery is not required when skirts and dresses are mid-calf in length or longer.Hosiery is required when wearing anything above mid-calf.

The following items are considered inappropriate:

(a) Summer blouses that show excessive cleavage are not acceptable.This includes off the shoulder and plunging necklines, revealing or skin-tight clothing, along with the District Attorney's dress code guidelines specified in the original Dress Code.

(b) Flip-flops are not allowed.Sandals may be worn with the exception of Crocs or Birkenstock-type sandals.Jeans and tennis shoes may be worn only on designated days.

(c) Any midriff-baring garments.

(d) Sweats.

(e) Spaghetti-strap tops or dresses.

(f) Backless sundresses.

(g) Mini-skirts.

(h) Undershirts or athletic t-shirts (commonly referred to as "Tank Tops").

(i) Pajamas or boxer shorts.

809.5.3 SPECIAL ASSIGNMENT ATTIRE

Section Lieutenants may authorize business casual attire for designated personnel while performing special projects or assignments and for a specified period of time.

Requirements for business casual attire:

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(a) Shirts with collars. All shirts must be tucked in.

(b) Dress belts.

(c) Shined shoes.

(d) Jeans, western wear, faded or stone washed clothing are not acceptable.

(e) All business casual attire should be clean, unwrinkled, not frayed and in good condition.

(f) Company logos and advertising on clothing are not acceptable.

Due to daily changing conditions and work schedules, investigators are expected to have court appropriate attire available at all times.

809.6 INTERPRETATIONS AND EXCEPTIONS

The Locate unit is exempt from this policy as it applies to clothing. The acceptable dress code for the members of the Locate unit shall be casual and at the discretion of the Administrative Lieutenant.

Any interpretation or application problems regarding these standards shall be brought to the attention of the Chief Investigator.

Exceptions to these standards are only allowed with prior approval of the Chief Investigator.

809.7 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief Investigator should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

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Lactation Breaks

810.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding reasonable accommodations for lactating members (Labor Code § 1034).

810.2 POLICY

It is the policy of the Kern County District Attorney's Office Bureau of Investigation to provide, in compliance with federal and state law, reasonable accommodations for lactating members. This includes break time and appropriate facilities to accommodate any member desiring to express breast milk for the member's nursing child (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3; Labor Code § 1030).

810.3 LACTATION BREAK TIME

A rest period should be permitted each time the member requires a lactation break (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3; Labor Code § 1030). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time.

Lactation breaks, if feasible, should be taken at the same time as the member's regularly scheduled rest or meal periods. While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Members desiring to take a lactation break shall notify the dispatcher or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt bureau operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

810.4 PRIVATE LOCATION

The Bureau will make reasonable efforts to accommodate members with the use of an appropriate room or other location to express milk in private. Such room or place should be in proximity to the member's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view, free from intrusion from coworkers and the public, and otherwise satisfy the requirements of federal and state law (29 USC § 218d; 42 USC § 2000gg-1; 29 CFR 1636.3; Labor Code § 1031).

Members occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

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Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

810.5 STORAGE OF EXPRESSED MILK

Any member storing expressed milk in any authorized refrigerated area within the Bureau shall clearly label it as such and shall remove it when the member's shift ends.

810.5.1 STATE REQUIREMENTS

Members have the right to request lactation accommodations. If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (Labor Code § 1034).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of Labor Code § 1031.

Members who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (Labor Code § 1033).

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Occupational Disease and Work-Related Injury Reporting

811.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, mental health issues, and work-related injuries.

811.1.1 DEFINITIONS

Definitions related to this policy include:

Occupational disease or work-related injury - An injury, disease, or mental health issue arising out of employment (Labor Code § 3208; Labor Code § 3208.3; Labor Code § 3212 et seq.).

811.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.).

811.3 INJURIES REQUIRING MEDICAL CARE

All work related injuries and work related illnesses requiring medical care must be reported to the Risk Management Office and a claim form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays.

811.4 INJURIES NOT REQUIRING MEDICAL ATTENTION

Those injuries and illnesses not requiring medical attention shall be recorded on a Supervisor's Report of Injury form. This form shall be completed and signed by a supervisor.

This form shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later.

811.5 RESPONSIBILITIES

811.5.1 EMPLOYEE'S RESPONSIBILITY

Any employee sustaining any work-related injury or illness, as well as any employee who is involved in any accident while on duty shall report such injury, illness or accident as soon as practical to his/her supervisor.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury or illness that requires relief from duty is required to be examined/treated by a doctor.

Any employee sustaining a work-related injury or illness that requires relief from duty is also required to comply with departmental policies and directives relating to the duty to periodically call

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in during absences, as well as the duty to notify the Department of any change in condition or anticipated duration of the absence.

When appropriate, an employee being treated for an on-duty injury should inform the attending physician that a modified duty assignment may be available at the Department. Limited-service duty may be available for the employees whose injuries prevent resumption of regular duties.

An injured employee or employee who has suffered a work-related illness shall report as soon as practical to his/her immediate supervisor the medical findings concerning the injury and the extent and duration of any work restrictions if they are known. In addition, such employees are required to promptly submit all medical releases, whether partial or full releases, to their supervisor.

811.5.2 SUPERVISOR'S RESPONSIBILITY

A supervisor learning of any work-related injury, illness or accident shall promptly prepare the appropriate forms as outlined in the Kern County Administrative Rules. Updated copies of forms with instructions for completion provided by Risk Management are kept in the Business Office.

For work-related accidents, injuries or illness not requiring professional medical care, a Supervisor's Report of Injury form shall be completed. All copies of the completed form shall be forwarded to the Business Office through the chain of command.

When an accident, injury, or illness is reported initially on the Supervisor's Report of Injury form and the employee subsequently requires professional medical care, the State of California Employer's Report of Occupational Injury or Illness form shall then be completed. The injured employee shall also sign the form in the appropriate location.

Every injured employee must be provided with an Employee's Claim for Workers' Compensation Benefits Form (DWC-1) within 24 hours, regardless of the nature of illness or injury.

Copies of any reports documenting the accident or injury should be forwarded to the Business Office as soon as they are completed.

811.5.3 CHIEF INVESTIGATOR RESPONSIBILITY

The Chief Investigator shall review and forward copies of the report to the Business Office. Any copies of the report and any related documents retained by the Department shall be filed in the employee's confidential medical file and not in the employee's personnel file.

811.6 SETTLEMENT OF INJURY CLAIMS

Occasionally, an employee's work-related injury results from the negligent or wrongful acts of another, for which the employee, the County, and/or other insurers are entitled to recover civilly. To ensure that the County's interests are protected and that the employee has the benefit of the County's experience in these matters, the following procedure is to be followed:

811.6.1 EMPLOYEE TO REPORT INITIAL CONTACTS

When an employee sustains work-related injuries caused by another person and is then approached by such person or an agent, insurance company, or attorney and offered a settlement

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of claims, that employee shall take no action other than to make a written report of this contact to his/her supervisor as soon as possible.

811.6.2 NO SETTLEMENT WITHOUT PRIOR APPROVAL

No less than 10 days prior to accepting and finalizing the settlement of any third party claim arising out of or related to an on duty injury, the employee shall provide the Chief Investigator with written notice of the proposed terms of such settlement. In no case shall the employee accept a settlement without first providing such written notice to the Chief Investigator. The purpose of such notice to permit the County to determine whether or not the offered settlement will affect any claim the County may have regarding payment for damage(s) to equipment or reimbursement for wages against the person who caused the accident or injury and to protect the County's right of subrogation, while ensuring that the employee's rights to receive compensation for injuries are not affected.

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Department Badges

812.1 PURPOSE AND SCOPE

The Kern County District Attorney's Office Bureau of Investigation badge and uniform patch as well as the likeness of these items and the name of the Bureau of Investigation are property of the District Attorney's Office and their use shall be restricted as set forth in this policy.

812.2 POLICY

The badge shall be issued to bureau members as a symbol of authority. The use and display of bureau badges shall be in strict compliance with this policy. Only authorized badges issued by this bureau shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

812.2.1 FLAT BADGE

Sworn officers will be issued a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of bureau policy.

(a) Should the flat badge become lost, damaged, or otherwise removed from the investigator's control, he/she shall notify their supervisor.

(b) An honorably retired investigator may keep his/her flat badge upon retirement.

(c) The purchase, carrying or display of a sworn position flat badge is not authorized for non-sworn personnel.

812.2.2 NON-SWORN PERSONNEL

Badges and Bureau of Investigation identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Investigative Aide, Evidence Technician).

(a) Non-sworn personnel shall not display any badge except while acting in an official and authorized capacity.

(b) Non-sworn personnel shall not display any badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

812.2.3 RETIREE UNIFORM BADGE

Upon honorable retirement employees may retain his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

812.3 UNAUTHORIZED USE

Department badges are issued to all sworn employees and civilian employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not

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be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief Investigator.

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

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Uniform Regulations

813.1 PURPOSE AND SCOPE

The uniform policy of the Kern County District Attorney's Office Bureau of Investigation is established to ensure that uniformed investigators will be readily identifiable to the public through the proper use and wearing of bureau uniforms. Employees should also refer to the following associated policies:

Bureau Owned and Personal Property

Body Armor

Personal Appearance Standards

The Kern County District Attorney's Office Bureau of Investigation will provide uniforms for all employees required to wear them in the manner, quantity and frequency agreed upon in the respective employee group's collective bargaining agreement.

813.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

Bureau employees wear the uniform to be identified as the law enforcement authority in society. The uniform also serves an equally important purpose to identify the wearer as a source of assistance in an emergency, crisis, or other time of need.

(a) Uniform and equipment shall be maintained in a serviceable condition and shall be ready at all times for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.

(b) All peace officers of this department shall possess and maintain at all times, a serviceable uniform and the necessary equipment to perform uniformed field duty.

(c) Personnel shall wear only the uniform specified for their rank and assignment (Penal Code § 13655).

(d) All supervisors will perform periodic inspections of their personnel to ensure conformance to these regulations.

(e) Civilian attire shall not be worn in combination with any distinguishable part of the uniform.

(f) Uniforms are only to be worn while on duty, while in transit to or from work, for court, or at other official department functions or events.

(g) Employees are not to purchase or drink alcoholic beverages while wearing any part of the department uniform, including the uniform pants.

(h) Visible jewelry, other than those items listed below, shall not be worn with the uniform unless specifically authorized by the Chief Investigator or the authorized designee.

1. Wrist watch
2. Wedding ring, class ring, or other ring of tasteful design. A maximum of one ring/set may be worn on each hand

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3. Medical alert bracelet

813.2.1 DEPARTMENT ISSUED IDENTIFICATION
The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

(a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification in a courteous manner to any person upon request and as soon as practical.

(b) Investigators working specialized assignments may be excused from the possession and display requirements when directed by the Chief.

813.3 UNIFORM CLASSES

813.3.1 CLASS A UNIFORM
The Class A uniform is to be worn on special occasions such as funerals, graduations, ceremonies, or as directed. The Class A uniform includes the Class B uniform with:

(a) Long sleeve shirt 72344(M) 62064(W)

(b) Men's or Women's Midnight Navy 5.11 Tactical Pant, style number 74338(M) or 64304(W)

(c) Samuel Broome Medium Navy Tie, poly wool, clip on

(d) 2" x 5/16" Hero's Pride tie bar, Gold model 4007G

(e) 1 ½" Basket weave belt, black with gold buckle

(f) Gold name plate with blue letters, name plate with American Flag attached is optional

(g) KCDA patches affixed to both shoulders is required

(h) Polished black shoes

Boots with pointed toes are not permitted.

813.3.2 CLASS B UNIFORM
All investigators will possess and maintain a serviceable Class B uniform at all times.

The Class B uniform will consist of the same garments and equipment as the Class A uniform with the following exceptions:

(a) The following authorized shirts may be worn with the collar open. No tie is required

- Men's Midnight Navy 5.11 Tactical short or long sleeve shirt, style number 72344, 72345 (L) or 71183, 71177 (S).
- Women's Midnight Navy 5.11 Tactical short or long sleeve shirt, style number 62064, 62065 (L) or 61158, 61159 (S).

(b) A white, navy blue or black crew neck t-shirt must be worn with the uniform

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(c) All shirt buttons must remain buttoned except for the last button at the neck

(d) Authorized pants for the Class B Uniform include:

- Men's or Women's Midnight Navy 5.11 Tactical pant, style number 74338(M) or 64304(W).
- For Class B Uniform Only. Men's or Women's 5.11 Tactical BDU pant, style number 74326(M) or 64306(W).

(e) Gold embroidered name plate is optional in place of the metal name plate

(f) Embroidered Investigator badge on left side of chest is optional in place of KCDA metal badge

(g) KCDA patches affixed to both shoulders is required

(h) 1 ½" Black Basket Weave style belt with blackbuckle or Nylon belt black in color

(i) Shoes for the Class B uniform may be as described in the Class A uniform or a black boot capable of holding a polish

(j) No tennis shoes or hiking boots are authorized

(k) Boots with pointed toes are not permitted

813.3.3 CLASS B UNIFORM (PATROL)

The Class B Patrol uniform may be worn by investigators when assigned to an outlying area or when otherwise approved by the Chief Investigator.

(a) The following authorized shirts may be worn with the collar open. A tie shall not be worn.

- Men's Midnight Navy 5.11 Tactical short or long sleeve shirt, style number 71392 or 72519(L)
- Women's Midnight Navy 5.11 Tactical short or long sleeve shirt, style number 61047 or 62085(L)

(b) A navy blue or black crew neck t-shirt may be worn with the uniform

(c) Authorized pants for the Class B Patrol uniform include:

- Men's or Women's Midnight Navy 5.11 Tactical pant, style number 74338(M) or 64304(W).
- Men's or Women's 5.11 Tactical BDU pant, style number 74326(M) or 64306(W).

(d) Gold embroidered name plate on right side of chest

(e) Embroidered Investigator badge on left side of chest

(f) KCDA patches affixed to both shoulders

(g) 1 1/2" black Basket Weave style belt with black buckle or black Nylon belt

(h) Shoes for the Class B Patrol uniform will be as described in the Class B Uniform standard

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813.3.4 CLASS C UNIFORM

The Class C uniform may be worn to allow field personnel cooler clothing during the summer months or special duty. The Class C uniform may also be worn during other times of the year but at the discretion of the Chief Investigator or their designee.

The Class C uniform is approved for use during the service of search warrants, arrest warrants, training exercises or any other activity approved or authorized by Bureau Management.

When the wearing of the Class C uniform is authorized, investigators shall wear the approved uniform in whole including soft body armor, in accordance with the Body Armor policy of this manual. Shirts must remain tucked in at all times.

Investigators are responsible for maintaining their tactical uniform in good condition and shall keep their Class C uniform available.

The Bureau approved Class C uniform shall consist of the following:

(a) Black Cornerstone short or long sleeve polo style shirt with a cloth badge sewn on the left breast and the investigators name embroidered over the right breast.

(b) 5.11 Stryke Pro Pant, style number 74369, khaki in color.

(c) 5.11 Tactical web belt black or khaki in color.

(d) Shoes worn with the uniform shall be solid black or khaki in color, either low or high cut, laced style.Shoes having punch work, designs, ornamentation, pointed toes or cowboy/western styles shall not be permitted.Uniformed investigators may wear plain short boots, or Chukka style, which fit snugly at or above the ankle so that the trouser cuffs will not catch on top of the boot.Combat boots, jump boots, steel toed boots/ shoes, heel taps or shoes with an "aggressive" lug sole are prohibited.

813.3.5 SPECIALIZED UNIT UNIFORMS

The Chief Investigator may authorize special uniforms to be worn by investigators in specialized units such as the Prison Unit, Canine Team, SWAT, Bicycle Patrol, and other specialized assignments.

813.3.6 FOUL WEATHER GEAR

The Uniform jacket authorized is the 5.11 soft shell style number 48099 or 48373 and shall be black in color.

The jacket shall have the investigator badge embroidered on the left internal panel in the same colors authorized in the class B uniform.

The jacket shall have the word POLICE embroidered or screen printed on the right internal panel in the same gold color authorized in the class B uniform.

The jacket shall have the word POLICE embroidered or screen printed on the back internal panel in the same gold color authorized in the class B uniform.

Rain jackets and head coverings are generally not authorized but may be at the discretion of the Chief in certain circumstances.

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813.4 INSIGNIA AND PATCHES

(a) Shoulder Patches - The authorized shoulder patch supplied by the Department shall be machine stitched to the sleeves of all Class B uniform shirts, one-half of an inch below the shoulder seam of the shirt and be bisected by the crease in the sleeve.

(b) Service stripes, stars, etc. - Service stripes and other indicators for length of service may be worn on long sleeved shirts and jackets. They are to be machine stitched onto the uniform in gold. The bottom of the service stripe shall be sewn the width of three-quarters of an inch above the cuff seam with the rear of the service stripes sewn on the dress of the sleeve. The stripes are to be worn on the left sleeve only. Each stripe shall represent 5 years of service. Only CA POST service time shall be recognized.

(c) Nameplate or an authorized embroidered nameplate, shall be worn at all times while in uniform. The name plate shall be gold with blue lettering or embroidered in gold letters directly to the Class B uniform. The nameplate shall display the employee's first initial and last name. The nameplate shall be worn and placed above the right pocket located in the middle, bisected by the pressed shirt seam, with equal distance from both sides of the nameplate to the outer edge of the pocket.

(d) Badge - The department issued badge, or an authorized sewn on cloth replica, must be worn and visible at all times while in uniform.

(e) Rank Insignia - The designated insignia indicating the employee's rank must be worn at all times while in uniform. The Chief Investigator may authorize exceptions. Lieutenants and above shall wear gold collar rank insignias. Rank insignias should be placed with the bar(s) running horizontal, 1" from the front collar edge and 1" below the upper edge of the collar. The Chief Investigator shall wear gold stars running vertical along the collar line beginning 1" from the front of the collar.

813.4.1 MOURNING BADGE

Uniformed employees shall wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

(a) An investigator of this department - From the time of death until midnight on the 14th day after the death.

(b) An investigator from this or an adjacent county - From the time of death until midnight on the day of the funeral.

(c) Funeral attendee - While attending the funeral of an out of region fallen officer.

(d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.

(e) As directed by the Chief Investigator.

813.5 CIVILIAN ATTIRE

There are assignments within the Department that do not require the wearing of a uniform because recognition and authority are not essential to their function. There are also assignments in which the wearing of civilian attire is necessary. The civilian attire policy is outlined in the Personal Appearance Standards policy of this manual.

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813.5.1 INVESTIGATIVE SPECIALIST UNIFORM
The Investigative Specialist uniform may be worn by those within the classification when working out of the office or at the direction of the Chief.

(a) The following authorized shirts may be worn with the collar open

(b) Women's charcoal color Cornerstone Select Snag-Proof Tactical Polo (CS411, CS410LS)

(c) Men's charcoal color Cornerstone Select Snag-Proof Tactical Polo (CS410 or CS410LS)

(d) A white, navy blue or black crew neck t-shirt must be worn with the uniform

(e) Authorized pants for the Class B Uniform include:

- Men's 5.11 Black Taclite Pro Ripstop Pant (74273)
- Women's Black Taclite Pro Ripstop Pant (64630)

(f) Embroidered Investigative Specialist badge (2" in diameter) on left side of chest with the words "Investigative Specialist" embroidered directly below it

(g) Basket nylon belt with black buckle

(h) Shoes worn with the uniform shall be solid black in color, either low or high cut, laced style

(i) Shoes shall not have punch work, designs, ornamentation, pointed toes or cowboy/ wester styles

813.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief Investigator, Kern County District Attorney's Office Bureau of Investigation employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the Kern County District Attorney's Office Bureau of Investigation to do any of the following (Government Code §§ 3206 and 3302):

(a) Endorse, support, oppose, or contradict any political campaign or initiative.

(b) Endorse, support, oppose, or contradict any social issue, cause, or religion.

(c) Endorse, support, or oppose, any product, service, company or other commercial entity.

(d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

813.7 OPTIONAL EQUIPMENT - MAINTENANCE, AND REPLACEMENT

(a) Any of the items listed in the Uniform and Equipment Specifications as optional shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department for the cost of providing the Department issued item.

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(b) Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.

(c) Replacement of items listed in this order as optional shall be done as follows:

1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.

2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for the replacement of damaged personal property (see the Department Owned and Personal Property Policy).

813.7.1 RETIREE BADGES

The Chief Investigator may issue identification in the form of a badge, insignia, emblem, device, label, certificate, card or writing that clearly states the person has honorably retired from the Kern County District Attorney's Office Bureau of Investigation. This identification is separate and distinct from the identification authorized by Penal Code § 25455 and referenced in the Retired Investigator CCW Endorsement Policy in this manual.

A badge issued to an honorably retired peace officer that is not affixed to a plaque or other memento will have the words “Honorably Retired” clearly visible on its face. A retiree shall be instructed that any such badge will remain the property of the Kern County District Attorney's Office Bureau of Investigation and will be revoked in the event of misuse or abuse (Penal Code § 538d).

813.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES

Kern County District Attorney's Office Bureau of Investigation employees may not wear any uniform item, accessory or attachment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief Investigator or designee.

Kern County District Attorney's Office Bureau of Investigation employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in the Uniform and Equipment Specifications or by the Chief Investigator or designee.

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Nepotism and Conflicting Relationships

814.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of the Bureau of Investigation. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

814.1.1 DEFINITIONS

Business relationship - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Bureau employee's annual interest, compensation, investment or obligation is greater than $250.

Conflict of interest - Any actual, perceived or potential conflict of interest in which it reasonably appears that a bureau employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

Nepotism - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

Personal relationship - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

Public official - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

Relative - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

Subordinate - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

814.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Bureau will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940(a)):

(a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
2. When personnel and circumstances permit, the Bureau will attempt to make every reasonable effort to avoid placing employees in such supervisor/ subordinate situations. The Bureau, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.

(b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.

(c) Whenever possible, trainers will not be assigned to train relatives. Trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.

(d) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.

(e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

814.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify the Chief Investigator.

814.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps

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to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief Investigator of such actual or potential violations.

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Employee Speech, Expression and Social Networking

815.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Bureau.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or investigator associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

815.1.1 APPLICABILITY

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, use of all internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video, and other file-sharing sites.

815.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this bureau. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this bureau be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Kern County District Attorney's Office Bureau of Investigation will carefully balance the individual employee’s rights against the Bureau’s needs and interests when exercising a reasonable degree of control over its employees’ speech and expression.

815.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the internet. Speech and expression that may negatively affect the safety of the Kern County District Attorney's Office Bureau of Investigation employees, such as posting personal information in a public forum, can result in compromising an employee’s home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family, or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

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- Disclosing a photograph and name or address of an investigator who is working undercover.
- Disclosing the address of a fellow investigator.
- Otherwise disclosing where another investigator can be located off-duty.

815.4 PROHIBITED SPEECH, EXPRESSION, AND CONDUCT

To meet the bureau's safety, performance, and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or investigator associations, on a matter of public concern):

(a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation, or professionalism of the Kern County District Attorney's Office Bureau of Investigation or its employees.

(b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Kern County District Attorney's Office Bureau of Investigation and tends to compromise or damage the mission, function, reputation, or professionalism of the Kern County District Attorney's Office Bureau of Investigation or its employees. Examples may include:

1. Statements that indicate disregard for the law or the state or U.S. Constitution.
2. Expression that demonstrates support for criminal activity.
3. Participating in sexually explicit photographs or videos for compensation or distribution.

(c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination, or illegal behavior.

(d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Bureau. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.

(e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Kern County District Attorney's Office Bureau of Investigation.

(f) Use or disclosure, through whatever means, of any information, photograph, video, or other recording obtained or accessible as a result of employment with the Bureau for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief Investigator or the authorized designee.

(g) Posting, transmitting, or disseminating any photographs, video or audio recordings, likenesses or images of bureau logos, emblems, uniforms, badges, patches, marked vehicles, equipment, or other material that specifically identifies the Kern County

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District Attorney's Office Bureau of Investigation on any personal or social networking or other website or web page, without the express authorization of the Chief Investigator.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

815.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or investigator associations, employees may not represent the Kern County District Attorney's Office Bureau of Investigation or identify themselves in any way that could be reasonably perceived as representing the Kern County District Attorney's Office Bureau of Investigation in order to do any of the following, unless specifically authorized by the Chief Investigator (Government Code § 3206; Government Code § 3302):

(a) Endorse, support, oppose or contradict any political campaign or initiative.

(b) Endorse, support, oppose or contradict any social issue, cause or religion.

(c) Endorse, support or oppose any product, service, company or other commercial entity.

(d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or investigator associations), is affiliated with this bureau, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Kern County District Attorney's Office Bureau of Investigation.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or investigator associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

815.5 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any internet site (e.g., Facebook) that is accessed,

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transmitted, received, or reviewed on any bureau technology system (see the Information Technology Use Policy for additional guidance).

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

815.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief Investigator or authorized designee should consider include:

(a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.

(b) Whether the speech or conduct would be contrary to the good order of the Bureau or the efficiency or morale of its members.

(c) Whether the speech or conduct would reflect unfavorably upon the Bureau.

(d) Whether the speech or conduct would negatively affect the member’s appearance of impartiality in the performance of his/her duties.

(e) Whether similar speech or conduct has been previously authorized.

(f) Whether the speech or conduct may be protected and outweighs any interest of the Bureau.

815.7 TRAINING

Subject to available resources, the Bureau should provide training regarding employee speech and the use of social networking to all members of the Bureau.

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Temporary Modified-Duty Assignments

816.1 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 or limitation that is protected under federal or state law.

816.2 POLICY

Subject to operational considerations, the Kern County District Attorney's Office Bureau of Investigation 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.

816.3 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 Kern County District Attorney's Office Bureau of Investigation 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 Chief Investigator 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 or engaging in outside employment, or may otherwise limit them 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.

816.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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Employees seeking a temporary modified-duty assignment should submit a written request to the Chief Investigator or the 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 shall confer with the County Personnel Department as appropriate.

816.5 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 Chief Investigator.

816.5.1 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 their immediate supervisor that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

816.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

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 Chief Investigator and ensuring that the required documentation facilitating a return to full duty is received from the employee.

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(c) Ensuring that employees returning to full duty have completed any required training and certification.

816.6 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.

The Bureau may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

816.7 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.

If notified by an employee or the employee's representative regarding limitations related to pregnancy, childbirth, or related medical conditions, the Bureau should make reasonable efforts to provide an accommodation for the employee in accordance with federal and state law. The accommodation should be provided without unnecessary delay, as appropriate (42 USC § 2000gg-1; 29 CFR 1636.3; 29 CFR 1636.4; Government Code § 12945).

816.7.1 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.

816.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment may have their probation extended by a period of time equal to their assignment to temporary modified duty.

816.9 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.

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Fitness for Duty

817.1 PURPOSE AND SCOPE

All investigators are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all investigators of the Bureau remain fit for duty and able to perform their job functions (Government Code § 1031).

817.2 EMPLOYEE RESPONSIBILITIES

(a) It shall be the responsibility of each member of the Bureau to maintain good physical condition sufficient to safely and properly perform essential duties of their position.

(b) Each member of the Bureau shall perform his/her respective duties without physical, emotional, and/or mental constraints.

(c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.

(d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

817.3 SUPERVISOR RESPONSIBILITIES

(a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.

(b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.

(c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.

(d) In conjunction with the Chief Investigator, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.

(e) The Assistant District Attorney shall be promptly notified in the event that any employee is relieved from duty.

817.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

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817.5 WORK RELATED CONDITIONS

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Lieutenant or unit supervisor and concurrence of a Chief Investigator, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

(a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.

(b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

817.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

(a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief Investigator may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Personnel Department to determine the level of the employee’s fitness for duty. The order shall indicate the date, time and place for the examination.

(b) The examining physician or therapist will provide the Bureau with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)).

(c) In order to facilitate the examination of any employee, the Bureau will provide all appropriate documents and available information to assist in the evaluation and/or treatment.

(d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee’s confidential personnel file.

(e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

(f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

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817.7 LIMITATION ON HOURS WORKED

Absent emergency operations members should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any 2 day (48 hour) period or
- 84 hours in any 7 day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

817.8 APPEALS

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Personnel Complaints Policy.

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Commendations

818.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Kern County District Attorney's Office Bureau of Investigation and individuals from the community.

818.2 POLICY

It is the policy of the Kern County District Attorney's Office Bureau of Investigation to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

818.3 COMMENDATIONS

Commendations for members of the Bureau or for individuals from the community may be initiated by any bureau member or by any person from the community.

818.3.1 COMMENDATION MEMORANDUM

The Commendation memorandum shall be used to document the commendation of the employee and shall contain the following:

(a) Employee name, and assignment at the date and time of the commendation

(b) A brief account of the commendable action shall be documented with report numbers, as appropriate

(c) Signature of the commending supervisor

Completed memorandums shall be forwarded to the Chief Investigator for his/her review.

The Chief Investigator will return the commendation to the employee for his/her signature. The commendation will then be returned to the Administrative Secretary for entry into the employee's personnel file.

818.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond typical duties.

818.4.1 BUREAU MEMBER DOCUMENTATION

Members of the Bureau should document meritorious or commendable acts. The documentation should contain:

(a) Identifying information:

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1. For members of the Bureau - name, section and assignment at the date and time of the meritorious or commendable act
2. For individuals from the community - name, address, telephone number

(b) A brief account of the meritorious or commendable act with report numbers, as appropriate.

(c) The signature of the member submitting the documentation.

818.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. Bureau members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

(a) Identifying information:

1. For members of the Bureau - name, section and assignment at the date and time of the meritorious or commendable act
2. For individuals from the community - name, address, telephone number

(b) A brief account of the meritorious or commendable act with report numbers, as appropriate.

(c) The signature of the person submitting the documentation.

818.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the Bureau should be forwarded to the appropriate Division Lieutenant for his/her review. The Division Lieutenant should sign and forward the documentation to the Chief Investigator for his/her review.

The Chief Investigator the authorized designee will present the commendation to the bureau member for his/her signature. The documentation will then be returned to the Bureaus secretary for entry into the member’s personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Administration Lieutenant. The documentation will be signed by the Lieutenant and forwarded to the Chief Investigator for his/her review. An appropriate venue or ceremony to acknowledge the individual’s actions should be arranged. Documentation of the commendation shall be maintained in a file designated for such records.

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Illness and Injury Prevention

819.1 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 Kern County District Attorney's Office Bureau of Investigation, 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.

819.2 POLICY

The Kern County District Attorney's Office Bureau of Investigation 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.

819.3 ILLNESS AND INJURY PREVENTION PLAN

The Administration Lieutenant is responsible for developing an illness and injury prevention plan that shall include:

(a) Workplace safety and health training programs.

(b) Regularly scheduled safety meetings.

(c) Posted or distributed safety information.

(d) A system for members to anonymously inform management about workplace hazards.

(e) Establishment of a safety and health committee that will:

1. Meet regularly.
2. Prepare a written record of safety and health committee meetings.
3. Review the results of periodic scheduled inspections.
4. Review investigations of accidents and exposures.
5. Make suggestions to command staff for the prevention of future incidents.
6. Review investigations of alleged hazardous conditions.
7. Submit recommendations to assist in the evaluation of member safety suggestions.
8. Assess the effectiveness of efforts made by the Bureau to meet relevant standards.

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(f) Establishment of a process to ensure serious illnesses or injuries and death are reported as required by the Division of Occupational Safety and Health Administration (Cal/OSHA) (8 CCR § 342).

819.4 ADMINISTRATION DIVISION CHIEF RESPONSIBILITIES

The responsibilities of the Administration Lieutenant include but are not limited to:

(a) Managing and implementing a plan to reduce the incidents 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.
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) (8 CCR 3396)
   (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.

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(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.

819.5 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.

(d) Completing required forms and reports relating to illness and injury prevention; such forms and reports shall be submitted to the AdministrationLieutenant.

(e) Notifying the Administration Lieutenant 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.

819.6 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).

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.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

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All significant actions taken and dates they are completed shall be documented on an Identified Hazards and Correction Record form. This form should be forwarded to the Administration Lieutenant via the chain of command.

The Administration Lieutenant will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

819.7 INSPECTIONS

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards. A hazard assessment checklist should be used for documentation and to ensure a thorough assessment of the work environment.

The Administration Lieutenant shall ensure that the appropriate documentation is completed for each inspection.

819.7.1 EQUIPMENT

Members are charged with daily vehicle inspections of their assigned vehicles and of their personal protective equipment (PPE) prior to working in the field. Members shall complete the Identified Hazards and Correction Record form if an unsafe condition cannot be immediately corrected. Members should forward this form to their supervisors.

819.8 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.

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.

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819.9 TRAINING

The Administration Lieutenat shoul provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided:

(a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.

(b) To all members with respect to hazards specific to each member's job assignment.

(c) To all members given new job assignments for which training has not previously been provided.

(d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.

(e) Whenever the Bureau is made aware of a new or previously unrecognized hazard.

819.9.1 TRAINING TOPICS

The Administrative Lieutenant shall ensure that training includes:

(a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.

(b) Use of appropriate clothing, including gloves and footwear.

(c) Use of respiratory equipment.

(d) Availability of toilet, hand-washing and drinking-water facilities.

(e) Provisions for medical services and first aid.

(f) Handling of bloodborne pathogens and other biological hazards.

(g) Prevention of heat and cold stress.

(h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).

(i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.

(j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.

(k) Back exercises/stretches and proper lifting techniques.

(l) Avoidance of slips and falls.

(m) Good housekeeping and fire prevention.

(n) Other job-specific safety concerns.

819.10 RECORDS

Records and training documentation relating to illness and injury prevention will be maintained in accordance with the established records retention schedule.

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Line-of-Duty Deaths

820.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Kern County District Attorney's Office Bureau of Investigation in the event of the death of a member occurring in the line of duty and to direct the Bureau in providing proper support for the member's survivors.

The Chief Investigator may also apply some or all of this policy for a non-line-of-duty member death, or in situations where members are injured in the line of duty and the injuries are life-threatening.

820.1.1 DEFINITIONS

Definitions related to this policy include:

Line-of-duty death - The death of an investigator during the course of performing law enforcement-related functions while on- or off-duty, or a civilian member during the course of performing assigned duties.

For an investigator, a line-of-duty death includes death that is the direct and proximate result of a personal injury sustained in the line of duty (34 USC § 10281).

Survivors - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin, or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

820.2 POLICY

It is the policy of the Kern County District Attorney's Office Bureau of Investigation to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this bureau to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

820.3 INITIAL ACTIONS BY COMMAND STAFF

(a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Chief Investigator.

  1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).

(b) The Chief Investigator should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.

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(c) If the member has been transported to the hospital, the Administrative Lieutenant or the designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.

(d) The Chief Investigator or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve the temporary Hospital Liaison) and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

820.4 NOTIFYING SURVIVORS

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief Investigator or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief Investigator, xxxxx, or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the Bureau chaplain.

Notifying members should:

(a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.

(b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity, and current location (e.g., small children at home, children in school).

(c) Plan for concerns such as known health concerns of survivors or language barriers.

(d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in bureau vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital. Notifying members should remain at the hospital while the survivors are present.

(e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities, and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.

(f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.

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(g) Offer to call other survivors, friends, or clergy to support the survivors and to avoid leaving survivors alone after notification.

(h) Assist the survivors with meeting child care or other immediate needs.

(i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes, and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.

(j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Bureau Liaison.

(k) Provide their contact information to the survivors before departing.

(l) Document the survivors' names and contact information, as well as the time and location of notification. This information should be forwarded to the Bureau Liaison.

(m) Inform the Chief Investigator or the authorized designee once survivor notifications have been made so that other Kern County District Attorney's Office Bureau of Investigation members may be apprised that survivor notifications are complete.

820.4.1 OUT-OF-AREA NOTIFICATIONS

The Bureau Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

(a) The Bureau Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the bureau member that the survivors can call for more information following the notification by the assisting agency.

(b) The Bureau Liaison may assist in making transportation arrangements for the member’s survivors, but will not obligate the Bureau to pay travel expenses without the authorization of the Chief Investigator.

820.5 NOTIFYING BUREAU MEMBERS

Supervisors or members designated by the Chief Investigator are responsible for notifying bureau members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shifts. Members reporting for duty from their residences should be instructed to contact their supervisors as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

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Supervisors should direct members not to disclose any information outside the Bureau regarding the deceased member or the incident.

820.6 LIAISONS AND COORDINATORS

The Chief Investigator or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including but not limited to:

(a) Bureau Liaison.

(b) Hospital Liaison.

(c) Survivor Support Liaison.

(d) Wellness Support Liaison.

(e) Funeral Liaison.

(f) Mutual aid coordinator.

(g) Benefits Liaison.

(h) Finance coordinator.

Liaisons and coordinators will be directed by the Bureau Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available bureau resources. The Bureau Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed. The Bureau should consider seeking assistance from surrounding law enforcement agencies to fill liaison and coordinator positions, as appropriate.

820.6.1 BUREAU LIAISON

The Bureau Liaison should be a Division Chief or of sufficient rank to effectively coordinate bureau resources, and should serve as a facilitator between the deceased member's survivors and the Bureau. The Bureau Liaison reports directly to the Chief Investigator. The Bureau Liaison's responsibilities include but are not limited to:

(a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System.

(b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.

(c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.

(d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.

(e) Coordinating all official law enforcement notifications and arrangements.

(f) Making necessary contacts for authorization to display flags at half-staff.

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(g) Reminding bureau members of appropriate information-sharing restrictions regarding the release of information that could undermine future legal proceedings.

(h) Coordinating security checks of the member's residence as necessary and reasonable.

(i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

820.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

(a) Establish a command post or incident command system, as appropriate, to facilitate management of the situation and its impact on hospital operations (e.g., influx of people, parking).

(b) Arrange for appropriate and separate waiting areas for:

1. The survivors and others whose presence is requested by the survivors.
2. Bureau members and friends of the deceased member.
3. Media personnel.

(c) Ensure, as practicable, that any suspects who are in the hospital and their families or friends are not in proximity to the member's survivors or Kern County District Attorney's Office Bureau of Investigation members (except for members who may be guarding a suspect).

(d) Arrange for survivors to receive timely updates regarding the member before information is released to others.

(e) Arrange for survivors to have private time with the member, if requested.

1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
2. The Hospital Liaison should accompany the survivors into the room, if requested.

(f) Stay with survivors and provide them with other assistance as needed at the hospital.

(g) If applicable, explain to the survivors why an autopsy may be needed.

(h) Make arrangements for hospital bills to be directed to the Bureau, that the survivors are not asked to sign as guarantor of payment for any hospital treatment, and that the member's residence address, insurance information, and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting their actions at the conclusion of duties.

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820.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Bureau Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term bureau contact for survivors.

The Survivor Support Liaison should be selected by the deceased member's Division Chief. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- The selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.
- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include but are not limited to:

(a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes, and other locations, as appropriate.

(b) Communicating with the Bureau Liaison regarding appropriate security measures for the family residence, as needed.

(c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.

(d) Providing assistance with travel and lodging arrangements for out-of-town survivors.

(e) Returning the deceased member's personal effects from the Bureau and the hospital to the survivors. The following should be considered when returning the personal effects:

1. Items should not be delivered to the survivors until they are ready to receive the items.
2. Items not retained as evidence should be delivered in a clean, unmarked box.
3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
4. The return of some personal effects may be delayed due to ongoing investigations.

(f) Assisting with the return of bureau-issued equipment that may be at the deceased member's residence.

1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.

(g) Working with the Wellness Support Liaison for survivors to have access to available counseling services.

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(h) Coordinating with the bureau's Public Information Officer (PIO) to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Public Information Officer section of this policy).

(i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal, and administrative investigations.

(j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.

(k) Introducing survivors to prosecutors, victim's assistance personnel, and other involved personnel as appropriate.

(l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).

(m) Inviting survivors to bureau activities, memorial services (e.g., as applicable, the Annual Candlelight Vigil at the National Law Enforcement Officers Memorial), or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Bureau recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Bureau to facilitate communications necessary to the assignment. The bureau-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

820.6.4 WELLNESS SUPPORT LIAISON

The Wellness Support Liaison should work with the bureau wellness coordinator or the authorized designee and other liaisons and coordinators to make wellness support and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the Wellness Support Liaison include but are not limited to:

(a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for wellness support and counseling services, including:

1. Members involved in the incident.
2. Members who witnessed the incident.
3. Members who worked closely with the deceased member but were not involved in the incident.

(b) Making arrangements for members who were involved in or witnessed the incident to be relieved of bureau responsibilities until they can receive wellness support.

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(c) Making wellness support and counseling resources (e.g., peer support, Critical Incident Stress Debriefing) available to members as soon as reasonably practicable following the line-of-duty death.

(d) Coordinating with the Survivor Support Liaison to inform survivors of available wellness support and counseling services and assisting with arrangements as needed.

(e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional wellness support or counseling services are needed.

820.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Bureau Liaison, Survivor Support Liaison, and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include but are not limited to:

(a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.

(b) Completing funeral notification to other law enforcement agencies.

(c) Coordinating the funeral activities of the Bureau, including but not limited to the following:

1. Honor Guard
   - (a) Casket watch
   - (b) Color guard
   - (c) Pallbearers
   - (d) Bell/rifle salute
2. Bagpipers/bugler
3. Uniform for burial
4. Flag presentation
5. Last radio call

(d) Briefing the Chief Investigator and command staff concerning funeral arrangements.

(e) Assigning an investigator to remain at the family home during the viewing and funeral.

(f) Arranging for transportation of the survivors to and from the funeral home and interment site using bureau vehicles and drivers.

(g) Addressing event-related logistical matters (e.g., parking, visitor overflow, public assembly areas).

820.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Bureau Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

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(a) Traffic control during the deceased member's funeral.

(b) Area coverage so that as many Kern County District Attorney's Office Bureau of Investigation members can attend funeral services as possible.

The mutual aid coordinator should perform duties in accordance with the Outside Agency Assistance Policy.

Where practicable, the Chief Investigator should appoint a mutual aid coordinator to identify external resources in advance of any need (e.g., regional honor guard teams, county- or state-wide resources).

820.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and will assist them in applying for benefits. Responsibilities of the Benefits Liaison include but are not limited to:

(a) Confirming the filing of workers' compensation claims and related paperwork (see the Occupational Disease and Work-Related Injury Reporting Policy).

(b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the following:

1. Public Safety Officers' Benefits Program, including financial assistance available through the Public Safety Officers' Educational Assistance (PSOEA) Program, as applicable (34 USC § 10281 et seq.).

2. Social Security Administration.

3. Department of Veterans Affairs.

(c) Researching and assisting survivors with application for state and local government survivor benefits, such as:

1. Education benefits (Education Code § 68120).

2. Health benefits (Labor Code § 4856).

3. Workers' compensation death benefit (Labor Code § 4702).

(d) Researching and assisting survivors with application for other survivor benefits such as:

1. Private foundation survivor benefits programs.

2. Survivor scholarship programs.

(e) Researching and informing survivors of support programs sponsored by bureau associations and other organizations.

(f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.

1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.

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(g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.

(h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

820.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief Investigator and the Bureau Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

(a) Establishing methods for purchasing and monitoring costs related to the incident.

(b) Providing information on finance-related issues, such as:

1. Paying survivors' travel costs if authorized.
2. Transportation costs for the deceased.
3. Funeral and memorial costs.
4. Related funding or accounting questions and issues.

(c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.

(d) Providing accounting and cost information as needed.

820.7 PUBLIC INFORMATION OFFICER

In the event of a line-of-duty death, the bureau's PIO should be the bureau's contact point for the media. As such, the PIO should coordinate with the Bureau Liaison to:

(a) Collect and maintain the most current incident information and determine what information should be released.

(b) Instruct bureau members to direct any media inquiries to the PIO.

(c) Prepare necessary press releases.

1. Coordinate with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
2. Disseminate important public information, such as information on how the public can show support for the bureau and deceased member's survivors.

(d) Arrange for community and media briefings by the Chief Investigator or the authorized designee as appropriate.

(e) Respond, or coordinate the response, to media inquiries.

(f) If requested, assist the member's survivors with media inquiries.

1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.

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(g) Release information regarding memorial services and funeral arrangements to bureau members, other agencies, and the media as appropriate.

(h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's survivors have been notified. If the media have obtained identifying information for the deceased member prior to survivor notification, the PIO should request that the media withhold the information from release until proper notification can be made to survivors. The PIO should notify media when survivor notifications have been made.

820.8 BUREAU CHAPLAIN

The Bureau chaplain may serve a significant role in line-of-duty deaths. Chaplain duties may include but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support, or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting bureau members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

820.9 INVESTIGATION OF THE INCIDENT

The Chief Investigator should make necessary assignments to conduct thorough investigations of any line-of-duty death and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends, or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved bureau members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

820.10 NON-LINE-OF-DUTY DEATH

The Chief Investigator may authorize certain support services for the death of a member not occurring in the line of duty.

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Attachments

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Statutes and Legal Requirements.pdf

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Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

Related Crimes

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023- Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.

Military Equipment List.pdf

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Category 1: Unmanned, remotely piloted, aerial, or ground vehicles

1. Description, quantity, capabilities, and expected lifespan:
    - N/A

2. Purpose and authorized uses:
    - N/A

3. Fiscal Impact:
    - N/A

4. Legal and Procedural rules for each authorized use:
    - N/A

5. Training:
    - N/A

Category 2: Armored Personnel Carriers

1. Description, quantity, capabilities, and expected lifespan:
    - N/A

2. Purpose and authorized uses:
    - N/A

3. Fiscal Impact:
    - N/A

4. Legal and Procedural rules for each authorized use:
    - N/A

5. Training:
    - N/A

Category 3: High Mobility Multipurpose Wheeled Vehicles

1. Description, quantity, capabilities, and expected lifespan:
    - N/A

2. Purpose and authorized uses:
    - N/A

3. Fiscal Impact:
    - N/A

4. Legal and Procedural rules for each authorized use:
    - N/A

5. Training:
    - N/A

Category 4: Tracked armored vehicles

1. Description, quantity, capabilities, and expected lifespan:
    - N/A

2. Purpose and authorized uses:
    - N/A

3. Fiscal Impact:
    - N/A

4. Legal and Procedural rules for each authorized use:
    - N/A

5. Training:
    - N/A

Category 5: Command and control vehicles / Operation command vehicles

1. Description, quantity, capabilities, and expected lifespan:
    - N/A

2. Purpose and authorized uses:
    - N/A

3. Fiscal Impact:
    - N/A

4. Legal and Procedural rules for each authorized use:
    - N/A

5. Training:
    - N/A

Category 6: Weaponized aircraft, vessels, or vehicles

1. Description, quantity, capabilities, and expected lifespan:
    - N/A

2. Purpose and authorized uses:
    - N/A

3. Fiscal Impact:
    - N/A

4. Legal and Procedural rules for each authorized use:
    - N/A

5. Training:
    - N/A

Category 7: Explosive breaching tools

1. Description, quantity, capabilities, and expected lifespan:
    - N/A

2. Purpose and authorized uses:
    - N/A

3. Fiscal Impact:
    - N/A

4. Legal and Procedural rules for each authorized use:
    - N/A

5. Training:
    - N/A

Category 8: Firearms larger than .50 caliber (excluding shotguns)

1. Description, quantity, capabilities, and expected lifespan:
    - N/A

2. Purpose and authorized uses:
    - N/A

3. Fiscal Impact:
    - N/A

4. Legal and Procedural rules for each authorized use:
    - N/A

5. Training:
    - N/A

Category 9: Firearms and ammunition (excluding standard-issue handguns)

1. Description, quantity, capabilities, and expected lifespan:

    a) Barnes Precision Machine, 5.56 NATO, gas operated rifle, converted to semi-automatic. Quantity: 4. A rifle that has longer range and velocity capabilities than a pistol. This item allows for a more precise deadly force option than an issued pistol and has the capability to contain a larger round count for multiple threat engagements. This item does not have a designated lifespan; repair and replacement shall be performed as needed.

    b) Colt AR-15, 5.56 NATO, gas operated, semi-automatic rifle. Quantity: 3. A rifle that has longer range and velocity capabilities than a pistol. This item allows for a more precise deadly force option than an issued pistol and has the capability to contain a larger round count for multiple threat engagements. This item does not have a designated lifespan; repair and replacement shall be performed as needed.

    c) Bushmaster XM15, 5.56 NATO, gas operated, semi-automatic rifle. Quantity: 2. A rifle that has longer range and velocity capabilities than a pistol. This item allows for a more precise deadly force option than an issued pistol and has the capability to contain a larger round count for multiple threat engagements. This item does not have a designated lifespan; repair and replacement shall be performed as needed.

    d) Colt SMG, 9mm NATO, blowback operated, select fire rifle. Quantity: 2. This item allows for a more precise deadly force option than an issued pistol and has the capability to contain a larger round count for multiple threat engagements. This item does not have a designated lifespan; repair and replacement shall be performed as needed.

    e) Winchester Ranger 223 caliber ammunition; 10,400 rounds.

    f) Winchester 5.56mm ammunition; 3800 rounds.

2. Purpose and authorized uses:

- To be used as precision weapons to address deadly threats when authorized by policy and law. Investigators may deploy a patrol rifle in any circumstance where the member can articulate a reasonable expectation that the rifle may be needed.

3. Fiscal Impact:

   a) Barnes Precision Machine rifle: $1725.00 initial cost, $50.00 estimated annual maintenance cost.

   b) Colt AR-15 rifle: $1399.00 initial cost, $50.00 estimated annual maintenance cost.

   c) Bushmaster XM15 rifle: $949.99 initial cost, $50.00 estimated annual maintenance cost.

   d) Colt SMG rifle: $849.00 initial cost, $50.00 estimated annual maintenance cost.

   e) Winchester 223 ammunition: $132.72 per case of 200.

   f) Winchester 5.56 ammunition: $313.12 per case of 1000.

4. Legal and Procedural rules for each authorized use:
   - The Kern County District Attorney's Office Bureau of Investigations will equip its members with firearms to address the risks posed to the public and bureau members by violent and sometimes well-armed persons.
   - 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).
   - Penal Code section 835a, the Bureau of Investigations Use of Force, and Firearms policies further establish the legal bases for use of these items.

5. Training:

   - Only Investigators that have passed a POST certified patrol rifle course or equivalent, and meet quarterly qualification standards, are authorized to use, or deploy a rifle.

Category 10: Firearms or accessories that launch explosive projectiles

1. Description, quantity, capabilities, and expected lifespan:
   - N/A

2. Purpose and authorized uses:

- N/A

3. Fiscal Impact:
   - N/A

4. Legal and Procedural rules for each authorized use:
   - N/A

5. Training:
   - N/A

Category 11: Noise Flash Diversionary Devices

1. Description, quantity, capabilities, and expected lifespan:
   - N/A

2. Purpose and authorized uses:
   - N/A

3. Fiscal Impact:
   - N/A

4. Legal and Procedural rules for each authorized use:
   - N/A

5. Training:
   - N/A

Category 12: Chemical munitions (excluding handheld pepper spray)

1. Description, quantity, capabilities, and expected lifespan:
   - N/A

2. Purpose and authorized uses:
   - N/A

3. Fiscal Impact:
   - N/A

4. Legal and Procedural rules for each authorized use:
   - N/A

5. Training:

- N/A

Category 13: Shockwave, microwave, water cannons, and acoustic disbursement devices

1. Description, quantity, capabilities, and expected lifespan:
    - N/A

2. Purpose and authorized uses:
    - N/A

3. Fiscal Impact:
    - N/A

4. Legal and Procedural rules for each authorized use:
    - N/A

5. Training:
    - N/A

Category 14: Kinetic energy weapons and munitions

1. Description, quantity, capabilities, and expected lifespan:
    - N/A

2. Purpose and authorized uses:
    - N/A

3. Fiscal Impact:
    - N/A

4. Legal and Procedural rules for each authorized use:
    - N/A

5. Training:
    - N/A

Category 15: Any other equipment designated for additional oversight

1. Description, quantity, capabilities, and expected lifespan:

    a) Aimpoint CompM4, red dot, reflex sight. Quantity: 11. The Aimpoint sight is designed to be mounted to a firearm and allows a shooter to keep both eyes

open while focusing on a target. The Aimpoint sight is not magnified. This item does not have a designated lifespan; repair and replacement shall be performed as needed.

b) Insight Technology Illuminator. Quantity: 19. The Insight Illuminator is designed to be mounted to a firearm and allows a shooter to illuminate a target in low light situations. This item does not have a designated lifespan; repair and replacement shall be performed as needed.

2. Purpose and authorized uses:

- These items allow Investigators better target acquisition when used in conjunction with firearms. Investigators may deploy either or both devices in any circumstance they deem necessary in accordance with department policy and law.

3. Fiscal Impact:

a) Aimpoint sights were acquired through the Cal-OES, Law Enforcement Support Office (LESO) program and have no fiscal impact to the department.

b) Insight Illuminators were acquired through the Cal-OES, Law Enforcement Support Office (LESO) program and have no fiscal impact to the department.

4. Legal and Procedural rules for each authorized use:

- The Kern County District Attorney's Office Bureau of Investigations will equip its members with equipment to address the risks posed to the public and bureau members by violent and sometimes well-armed persons.
- When these items are used in conjunction with a firearm, Investigators will adhere to all department policies that address firearm usage and adhere to current laws.
- 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).
- Penal Code section 835a, the Bureau of Investigations Use of Force, and Firearms policies further establish the legal bases for use of these items.

5. Training:

- Investigators are required to meet quarterly firearms qualification standards. Proper alignment of sights and demonstrated proficiency is required prior to an Investigator deploying a reflex sight. Investigators are expected to be proficient with illumination tools prior to deployment.

Secure_Juvenile_Detention_Log_BSCC_Rev_Jan-22-.pdf

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SECURE DETENTION OF JUVENILES LOG

Agency: _____ Month/Year: _____

Record ONLY those juveniles held in Secure Detention and document 30 minute checks

Conditions for Secure Detention (WIC §207.1(b)(1) / Title 15, Article 9):
(secure = secure perimeter, cell, a locked room, or secured to a stationary object)

1. Juveniles must be 14 years of age or older (WIC 602) AND detained under WIC §602.
2. Juveniles may not be held longer than six (6) hours for processing purposes.
3. The detaining officer must have reason to believe that the juvenile presents a serious risk of harm to self or others. **This risk must be documented.**
4. Juveniles must be sight and sound separated from adult prisoners at all times (WIC §208).

***** Status Offenders and Nonoffenders must not be held in secure detention. *****

Status Offenses include: runaway, underage drinking, possession of alcohol/tobacco, curfew violations, truancy (WIC §601).

A Nonoffender is a dependent/neglected juvenile or a juvenile in need of mental health services with no delinquent charges (WIC §300).

***** Release Codes and definitions are listed on back of log. *****

A. Complete this section for each juvenile placed in secure detention. **B.** Complete this section when juvenile is released or transferred.

Juvenile / Officer / Approved By / Location	Sex	Age	Reason Detained	Entered Facility		WIC §207.1 Advisements		30 Minute observations or 15 minute observations if intoxicated				Released From Facility		Total Time in Facility	Type of Release Code*	Release Information
			Charge(s)	Date	Time	Juvenile advised of	by: Initials	Time	Emp. Initials	Time	Emp. Initials	Date	Time	Hrs/Mins		
Juvenile's Name:						Purpose of secure detention										Released To:
Arresting Officer:						Expected duration of detention										Released By:
Detention Approved By:						6 hour detention limit										
Location of Secure Detention:	Juvenile Secured to a Stationary Object? (circle one): Yes No					**Reason(s) for Secure Detention (circle all that apply):** age; maturity; delinquent history; severity of offense; behavior; availability of staff to provide adequate supervision or protection; type and number of other individuals detained.										Other:
Juvenile's Name:						Purpose of secure detention										Released To:
Arresting Officer:						Expected duration of detention										Released By:
Detention Approved By:						6 hour detention limit										
Location of Secure Detention:	Juvenile Secured to a Stationary Object? (circle one): Yes No					**Reason(s) for Secure Detention (circle all that apply):** age; maturity; delinquent history; severity of offense; behavior; availability of staff to provide adequate supervision or protection; type and number of other individuals detained.										Other:
Juvenile's Name:						Purpose of secure detention										Released To:
Arresting Officer:						Expected duration of detention										Released By:
Detention Approved By:						6 hour detention limit										
Location of Secure Detention:	Juvenile Secured to a Stationary Object? (circle one): Yes No					**Reason(s) for Secure Detention (circle all that apply):** age; maturity; delinquent history; severity of offense; behavior; availability of staff to provide adequate supervision or protection; type and number of other individuals detained.										Other: _____

Supervisor Approving: _____ Date Approved: _____

This document is an EXAMPLE of a secure detention of juveniles log; although this information must be documented, there is no prescribed format.

Secure Detention of Juveniles Log

Instructions: This log shall be kept pursuant to Welfare and Institutions Code(WIC) §207.1(b)(1)(F). At the end of each month, the entries on the log of juveniles held in secure detention shall be tallied and entered on the Board of State and Community Corrections form titled *Monthly Report on the Detention of Minors.* Ensure that each juvenile is counted only once. Detention begins when the juvenile enters the law enforcement facility and ends when the juvenile leaves the facility.

Section A.

Detentions:

Information shall be entered for each juvenile placed in secure detention, regardless of the length of time. The "Charge(s)" for which the juvenile is detained must include a criminal offense rather than a status offense (see definition of status offense below).

Section B.

Type of Release Codes:

Code #	Description
1.	Juvenile released to parent or guardian.
2.	Transfer to detention facility.
3.	Other type of release.

Definitions

Status Offense:	A status offense is: runaway, underage drinking, possession of alcohol or tobacco, curfew violation, truancy. A juvenile detained on a warrant where the original offense is a status offense remains a status offender.
Stationary Objects:	Stationary objects include cuffing rails, rings, desks, tables, or other immovable objects.

DA Bureau Vehicle Release Form.rtf

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DA Bureau Vehicle Impound Notification.rtf

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Hate Crime Checklist.pdf

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HATE CRIME CHECKLIST

VICTIM

Victim Type:

☐ **Individual**
Legal name (Last, First): _____
Other Names used (AKA): _____

☐ **School, business or organization**
Name: _____
Type: _____
(e.g., non-profit, private, public school)
Address: _____

☐ **Faith-based organization**
Name: _____
Faith: _____
Address: _____

Target of Crime (Check all that apply):

☐ Person ☐ Private property ☐ Public property

☐ Other _____

Nature of Crime (Check all that apply):

☐ Bodily injury ☐ Threat of violence

☐ Property damage

☐ Other crime: _____

Property damage - estimated value _____

BIAS

Type of Bias
(Check all characteristics that apply):

☐ Disability
☐ Gender
☐ Gender identity/expression
☐ Sexual orientation
☐ Race
☐ Ethnicity
☐ Nationality
☐ Religion
☐ Significant day of offense
(e.g., 9/11, holy days)
☐ Other: _____

Specify disability (be specific):

_____

_____

Actual or Perceived Bias – Victim's Statement:

☐ Actual bias [Victim actually has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

If perceived, explain the circumstances in narrative portion of Report.

Reason for Bias:

Do you feel you were targeted based on one of these characteristics?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you know what motivated the suspect to commit this crime?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Do you feel you were targeted because you associated yourself with an individual or a group?
☐ Yes ☐ No *Explain in narrative portion of Report.*

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Are there Indicators the suspect is affiliated with a criminal street gang?
☐ Yes ☐ No *Describe in narrative portion of Report.*

Bias Indicators (Check all that apply):

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used
☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

Describe with exact detail in narrative portion of Report.

HISTORY

Relationship Between Suspect & Victim:

Suspect known to victim? ☐ Yes ☐ No
Nature of relationship: _____
Length of relationship: _____
If Yes, describe in narrative portion of Report

☐ Prior reported incidents with suspect? Total # _____
☐ Prior unreported incidents with suspect? Total # _____
Restraining orders? ☐ Yes ☐ No
If Yes, describe in narrative portion of Report
Type of order: _____ Order/Case# _____

WEAPONS

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____
Weapon(s) booked as evidence? ☐ Yes ☐ No
Automated Firearms System (AFS) Inquiry attached to Report? ☐ Yes ☐ No

HATE CRIME CHECKLIST

EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Total # of photos: _____ D#: _____

Taken by: _____ Serial #: _____

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo ☐ Known to victim

OBSERVATIONS

VICTIM	SUSPECT
☐ Tattoos	☐ Tattoos
☐ Shaking	☐ Shaking
☐ Unresponsive	☐ Unresponsive
☐ Crying	☐ Crying
☐ Scared	☐ Scared
☐ Angry	☐ Angry
☐ Fearful	☐ Fearful
☐ Calm	☐ Calm
☐ Agitated	☐ Agitated
☐ Nervous	☐ Nervous
☐ Threatening	☐ Threatening
☐ Apologetic	☐ Apologetic
☐ Other observations: _____	☐ Other observations: _____

ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):

Has suspect ever threatened you? ☐ Yes ☐ No

Has suspect ever harmed you? ☐ Yes ☐ No

Does suspect possess or have access to a firearm? ☐ Yes ☐ No

Are you afraid for your safety? ☐ Yes ☐ No

Do you have any other information that may be helpful? ☐ Yes ☐ No

Resources offered at scene: ☐ Yes ☐ No Type: _____

MEDICAL

Victim	Suspect	
☐	☐	Declined medical treatment
☐	☐	Will seek own medical treatment
☐	☐	Received medical treatment

Authorization to Release Medical Information, Form 05.03.00, signed? ☐ Yes ☐ No

Paramedics at scene? ☐ Yes ☐ No Unit # _____

Name(s)/ID #: _____

Hospital: _____

Jail Dispensary: _____

Physician/Doctor: _____

Patient #: _____

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

Training Matrix_Updated 10-16-18_.pdf

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TRIAL PREP				
MANDATORY	**COURSE NAME**	**POST #**	**Course Length**	**REIMBURSE**
Yes	INVEST AND TRIAL PREPARATION	30660	40	Yes
Yes	SEXUAL ASSAULT INVESTIGATION (ICI)	33430	40	Yes
Yes	OFFICER INVOLVED SHOOTINGS, INV (ICI)	22450	40	No
Yes	DOMESTIC VIOLENCE INVESTIGATION (ICI)	32415	40	No
Yes	HOMICIDE INVESTIGATION (ICI)	31921	80	No
No	CRIM INV INST CORE COURSE (ICI)	26000	80	Yes
No	COGNITIVE INTERVIEW & STATEMENT ANALYSIS	31455	40	No
No	Child Abuse (ICI)	32340	40	No
No	CHILD ABUSE INVESTIGATION, ADV (ICI)	31521	24	No
No	CHILD ABUSE/SEXUAL ASSAULT/ADV (ICI)	32322	24	No
No	GANG INVESTIGATONS (ICI)	26011	40	No
No	ADVANCED SEXUAL ASSAULT FOR INVESTIGATORS, ADV.	33437	24	No
No	CGIA National Gang Conference	NONE	24	No
No	CDAA Homicide Symposium	NONE	24	No
No	CHIA Annual Conference	NONE	24	No
No	CA Sexual Assult Investigators Association	NONE	24	No
PRISON				
Yes	HOMICIDE INVESTIGATION (ICI)	31921	80	No
No	GANG INVESTIGATONS (ICI)	26011	40	No
No	CDAA Prison Crimes Seminar	NONE	16	No
No	CGIA National Gang Conference	NONE	24	No
AUTO FRAUD				
Yes	WSATI Annual Training Seminar	NONE	40	Grant
No	CDAA Fraud Symposium	NONE	24	Grant
CHILD ABDUCTION				
Yes	CDAA Child Abduction Seminar	NONE	16	Mandate
Yes	CA Child Abduction Task Force	NONE	16	Mandate
HEALTHCARE FRAUD				
Yes	CDAA Fraud Symposium	NONE	24	Grant
REAL ESTATE FRAUD				
No	REAL ESTATE FRAUD INVESTIGATIONS (ICI)	21724	32	No
No	CDAA Fraud Symposium	NONE	24	No

WELFARE FRAUD				
Yes	CWFIA Annual Training Conference	NONE	40	MOU
No	FINANCIAL CRIMES INVESTIGATIONS (ICI)	32459	40	No
WORKER'S COMP				
Yes	NCFIA	NONE	24	Grant
Yes	CDAA Fraud Symposium	NONE	24	Grant
No	FINANCIAL CRIMES INVESTIGATIONS (ICI)	32459	40	No
CONSUMER FRAUD/ENVIRONMENTAL CRIMES				
No	ENVIRONMENTAL CRIMES INVESTIGATIONS (ICI)	30262	36	No
No	Rural Crime School	NONE	40	No
SUPERVISORS				
Yes	SUPERVISORY COURSE	400	80	YES
Yes	SLI	12311	192	YES
Yes	MANAGEMENT COURSE	501	104	YES
Yes	EXECUTIVE DEVELOPMENT	601	80	YES
No	ROLE OF THE CHIEF	10860	32	No
Yes	CIVILIAN SUPERVISORY COURSE	20400	80	No

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Citizen Complaint Procedure.pdf

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Kern County District Attorney

Bureau of Investigation

CITIZEN COMPLAINT PROCEDURE

Every citizen has the right to make a complaint against any employee of the Kern County District Attorney's Office Bureau of Investigation. The complaint may be made to any Bureau member. A complaint may be made in person, by telephone, by mail, by email, or by a person not directly involved in the incident. Complaints may also be made anonymously. The Bureau will release to the complaining party a copy of his or her own signed statement when the complaint is filed in person. All others will be mailed.

Once a complaint is received, the following procedure is followed:

1. The complaint is forwarded to the Chief Investigator who will take appropriate action and/or determine who will have responsibility for the investigation.

2. The person filing the complaint will be informed of the investigator's name and complaint number within three days after assignment.

3. Upon completion of the investigation, the case will be forwarded to the Chief Investigator and/or Assistant District Attorney for final disposition and appropriate action.

4. After the Bureau completes its review of the case, the complainant will be sent a letter advising that the investigation has been completed.

Kern County District Attorney
Bureau of Investigation

Personnel Complaint

Case #_____

Complainant's Name:_____ DOB: _____

Address:_____ City:_____ Zip:_____

Phone Number: Home:_____ Work:_____ Other:_____

Location of Occurrence:_____

Date/Time of Occurrence:_____

Personnel involved: _____
(Employee's Name, Badge Number)

Nature of Complaint

_____

_____

_____

_____

(Use additional sheets if necessary)

You have the right to make a complaint against a Bureau of Investigation employee. California law requires this agency to have a procedure to investigate citizens' complaints against peace officers. You have a right to a written description of this procedure. You have the right to make the complaint and have it investigated if you believe a peace officer has behaved improperly. Your complaint will be thoroughly investigated and a determination made. At the conclusion of the investigation you will be notified by mail and advised of whether or not the complaint was sustained. California law prohibits this office from sharing the details of the investigation or the nature of any discipline which may be imposed. Citizen complaints and any reports of findings relating to complaints must be retained by this agency for at least five years.

I have read and understood the above statement.

_____ Date: _____
Complainant's Signature

Received by: _____ Date: _____

Copy Given To:_____ Date: _____

Authorized: ○ Yes ○ No By: _____ Date:_____
(Lieutenant/Chief)

Reviewed by Administrative Lieutenant: _____ Date:_____

☐ Adverse Comment ☐ Divisional ☐ IA Investigation

Investigator Assigned: _____ Date: _____

Subject Employee Signature:_____ Date: _____

Supplemental Hate Crime Report-Agency.pdf

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SUPPLEMENTAL HATE CRIME REPORT

☐ **Hate incident (No Crime Committed)** ☐ **Hate Crime (422.6 PC, 51.7 CC, 52.1 CC)**

VICTIM

VICTIM TYPE

☐ **Individual**

Legal name (Last, First):

_____

Date of Birth	Age	Sex	Race

☐ **School, business or organization**

Name: _____

Type: _____

(e.g., non-profit, private, public school)

☐ **Faith-based organization**

Name: _____

Faith: _____

☐ **Other**

Name: _____

Type: _____

Address: _____

Date and time of incident:

_____

Location of incident:

_____

Date and time of report:

_____

Location of report:

_____

Agency Case #:

_____

NATURE OF CALL FOR SERVICE (check all that apply)

☐ Crime against persons

☐ Crime against property

☐ Gang activity

☐ Other _____

BIAS

TYPE OF BIAS

(Check all characteristics that apply)

☐ Disability

☐ Gender

☐ Gender identity/expression

☐ Sexual orientation

☐ Race

☐ Ethnicity

☐ Nationality

☐ Religion

☐ Significant day of offense *(e.g., 9/11, holy days)*

☐ Association with a person or group with one or more of these characteristics (actual or perceived)

☐ Other: _____

ACTUAL OR PERCEIVED BIAS – VICTIM'S STATEMENT

☐ Actual bias [Victim has the indicated characteristic(s)].

☐ Perceived bias [Suspect believed victim had the indicated characteristic(s)].

REASON FOR BIAS:

Do you feel you were targeted based on one of these characteristics?

☐ Yes ☐ No

Do you know what motivated the suspect to commit this crime?

☐ Yes ☐ No

Do you feel you were targeted because you associated yourself with an individual or a group?

☐ Yes ☐ No

Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)?

☐ Yes ☐ No

Are there Indicators the suspect is affiliated with a criminal street gang?

☐ Yes ☐ No

BIAS INDICATORS (CHECK ALL THAT APPLY):

☐ Hate speech ☐ Acts/gestures ☐ Property damage ☐ Symbol used

☐ Written/electronic communication ☐ Graffiti/spray paint ☐ Other: _____

HISTORY

SUSPECT INFORMATION

Legal name (Last, First): _____

Other Names used (AKA): _____

Date of Birth	Age	Sex	Race

Relationship to Victim: _____

RELATIONSHIP BETWEEN SUSPECT & VICTIM

Suspect known to victim: ☐ Yes ☐ No

Nature of relationship: _____

Length of relationship: _____

☐ Prior reported incidents with suspect: *Total #* _____

Prior unreported incidents with suspect:

☐ Yes ☐ No ☐ Unknown

WEAPONS/FORCE

Weapon(s) used during incident? ☐ Yes ☐ No Type: _____

Force used during incident? ☐ Yes ☐ No Type: _____

EVIDENCE

Witnesses present during incident? ☐ Yes ☐ No Statements taken? ☐ Yes ☐ No

Evidence collected? ☐ Yes ☐ No

Photos taken? ☐ Yes ☐ No

Recordings: ☐ Video ☐ Audio ☐ Booked

Suspect identified: ☐ Field ID ☐ By photo/video ☐ Known

RESOURCES

Resources offered at scene: ☐ Yes ☐ No

☐ Marsy's Law Handout ☐ Hate Crimes Brochure ☐ Other: _____

MEDICAL

Victim	Suspect	
☐	☐	Declined medical treatment
☐	☐	Will seek own medical treatment
☐	☐	Received medical treatment
☐	☐	Injuries observed

Completed by	***Date***

Name/Title/ID number

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