CHIEF’S PREFACE

As the Chief Investigator, I am honored to serve alongside such a dedicated team of professionals who uphold the highest standards of honor, pride, and dignity in their service to the County of San Joaquin. The Bureau of Investigation is one of the District Attorney's most valuable assets, and its reputation for excellence is a direct reflection of the unwavering commitment and hard work of our personnel. Without your dedication and professionalism, the bureau would not have earned the esteemed recognition it holds within the law enforcement community.

To ensure we continue operating at the highest level, we have partnered with Lexipol, a recognized leader in law enforcement policy development, to provide expert guidance on evolving laws, best practices, and procedures. The result of this collaboration is a newly updated policy manual, a living document designed to provide clear direction and structure to all members of the bureau. As laws and practices evolve, so too will this manual, ensuring we remain at the forefront of professional law enforcement standards.

Maintaining an efficient and effective agency depends on the conduct, discipline, and professionalism of every member. Leadership within the bureau is committed to ensuring that all personnel adhere to these established policies. Alongside ongoing training, mentorship, and responsive supervision, this manual will serve as a key resource to support sound decision-making and uphold the integrity of our bureau, the District Attorney's Office, and the communities we serve.

The standards outlined in this document are more than just operational guidelines—they represent the foundation of our professional service and accountability to the public. This comprehensive revision of our policy manual reaffirms our dedication to continuous improvement and our steadfast commitment to justice.

It is the responsibility of every employee to thoroughly review and understand the contents of this manual. It will serve as a guide to ensure that our decisions and actions remain aligned with the mission and philosophy of the San Joaquin County District Attorney's Office.

As members of the Bureau of Investigation, we are expected to uphold the highest levels of conduct, professionalism, and integrity in all interactions—with the public, with our colleagues, and with other criminal justice agencies. Included in this manual for reference are the Code of Professional Conduct and Responsibilities for Peace Officers, developed by the California Peace Officers' Association, and the Law Enforcement Code of Ethics. Every investigator must be familiar with and adhere to these principles.

To each of you, I extend my deepest gratitude for your hard work and dedication.

Bill Hutto
Chief, Bureau of Investigation

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HISTORY AND AUTHORITY OF THE DISTRICT ATTORNEY INVESTIGATOR

In California, the title "District Attorney Investigator" is used to designate persons with full peace officer authority employed by the District Attorney. As a classification, the District Attorney Investigator is one of the smallest within the criminal justice system and one of the least understood. He/she enters into the criminal justice system between the police or sheriff detective and the prosecuting attorney.

Generally, the District Attorney Investigator is the extension of the police investigator. He/she is responsible for the development of proof beyond a reasonable doubt to ensure the conviction. His/her role ranges from the traditional functions of criminal investigations and trial preparation to specialized assignments in consumer and environmental protection, major frauds, organized crime and intelligence, child stealing, career criminal units, arson and, in some counties, child support and welfare fraud units. Assignments in many counties also involve investigations of official corruption and/or malfeasance, as well as officer-involved shootings and grand jury
investigations.

The District Attorney Investigator is also probably the least studied. We have no knowledge of any published report dealing with the California District Attorney Investigator. Studies of law enforcement in general have either failed to include this category or have reported only limited functions of specific agencies. Similarly, studies of the prosecutor's role have failed to consider the roles of the investigator.

The District Attorney Investigator is actually a rather late addition to the category of law enforcement officers. The Los Angeles County District Attorney's Office became the first to regularly and permanently employ full-time investigators in 1912. It was 13 years later, in 1925, under the administration of Earl Warren, that Alameda County became the second county to employ full-time District Attorney Investigators.

The legal basis for the District Attorney Investigator is contained in Section 29601 of the Government Code. This section provides that all expenses necessarily incurred in the detection of crime and the prosecution of criminal cases by a District Attorney, are county charges.

Historically, the authority of the District Attorney to employ and maintain detectives to assist in the detection of crime and the gathering of evidence was settled in a series of cases in the early 1900's: Yolo County v. Joyce (1909), 156 Cal 419; Thail Detective Company v. Tuolumne (1918), 204 Cal. 31, and Cunning v. County of Humboldt (1928), 204 Cal 31. In essence, these cases held that a District Attorney had authority to employ persons to assist in the detection of crime and the gathering of evidence to be used in the prosecution of criminal cases, and that the claim for such services was a valid charge against the county even though not approved by the
Board of Supervisors.

Statutory recognition of the District Attorney Investigator as a peace officer by the State Legislature was not gained until 1952. At that time, the legislature designated the position as a limited duty peace officer. This designation remained until 1968, when the legislature granted full peace officer authority under then Section 830.3(b) of the

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California Penal Code. In 1977, the governor signed Senate Bill 821, which incorporated District Attorney Investigators and inspectors into 830.1 of the Penal Code. This did not, at that time, increase the peace officer authority granted to District Attorney Investigators, but brought them in with other general duty
criminal peace officers under one section. In 1981, with the passage of Senate Bill 1428, the District Attorney Investigators assumed their rightful place in Penal Code section 13510, and were therefore made eligible for P.O.S.T. training costs reimbursement.

The first P.O.S.T. approved course specifically designed for new District Attorney Investigators was designed, planned and written by a statewide consortium of District Attorney Investigators, Deputy District Attorneys, community college educators and P.O.S.T. staff. The course entitled, "Investigation and Trial Preparation," is an 80-hour class well suited to the new District Attorney Investigator as well as police and sheriff's investigators, and was first offered by Los Medanos College in Pittsburg, California in July, 1984.

In Hicks v. Board of Supervisors (1977), 69 Cal App. 3d 228, the courts again upheld and strengthened the District Attorney's authority in holding that the investigation and the gathering of evidence relating to criminal offenses is a responsibility which is inseparable from the District Attorney's prosecutorial function. The District Attorney is charged with the duty of investigating as well as prosecuting criminal activity and has the authority to employ
investigators. Those investigators, like the District Attorney, have independent jurisdiction in the county and those cities within the county.

OTHER APPLICABLE AUTHORITATIVE CODES ARE AS FOLLOWS:

Penal Code, Sec. 830.1
Criminal Investigators are peace officers. The authority of such investigators is statewide including investigations within the county of employment, other counties with the prior approval of the chief of police or sheriff in the locality and any place where he/she reasonably believes a crime has been committed in his/her presence, or when there is immediate danger to person or property.

Penal Code, Sec. 830.35
Public Assistance investigators are identified as peace officers if they are regularly employed and paid in that capacity with the primary duty to enforce the provisions of the Welfare and Institutions Code.

Penal Code, Sec. 13500 et al
Criminal investigators are governed by the rules and regulations set forth by the Commission on Peace Officer Standards and Training.

Penal Code, Sec. 1326
Criminal investigators have the power to issue subpoenas on their own signature.

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MISSION STATEMENT

The mission of the San Joaquin County District Attorney's Office is our community:

We are dedicated to upholding a healthy, fair and just society.

We are committed to leading San Joaquin County by education, prevention, investigation, prosecution and rehabilitation, as provided by law, with justice for all.

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Chapter 1 - Law Enforcement Role and Authority

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Law Enforcement Code of Ethics

100.1 PURPOSE AND SCOPE

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

100.2 POLICY

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

100.3 LAW ENFORCEMENT CODE OF ETHICS

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against abuse or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I WILL keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my bureau. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

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

I RECOGNIZE the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before god to my chosen profession... law enforcement.

100.3.1 OBJECTION TO RELIGIOUS AFFIRMATION

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

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Law Enforcement Authority

101.1 PURPOSE AND SCOPE

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

101.2 POLICY

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

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

101.3 PEACE OFFICER POWERS

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

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

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

a. When the investigator has probable cause to believe the person has committed a felony, whether or not committed in the presence of the investigator.
b. When the investigator has probable cause to believe the person has committed a misdemeanor in this jurisdiction and in the presence of the investigator.
c. When the investigator has probable cause to believe the person has committed a public offense outside this jurisdiction, in the presence of the investigator and the investigator reasonably believes there is an immediate danger to person or property, or of escape.
d. When the investigator has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized or required by statute even though the offense has not been committed in the presence of the investigator such as certain domestic violence offenses.
e. In compliance with an arrest warrant.

101.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE SAN JOAQUIN COUNTY DISTRICT ATTORNEY'S OFFICE

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

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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.

101.3.3 DELIVERY TO NEAREST MAGISTRATE

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

101.3.4 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):

1. 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).
2. The arrest is made in a public place.
3. The arrest is made with the person in custody pursuant to another lawful arrest.
4. The arrest is made pursuant to a warrant which, for good cause shown, directs that it may be served at any time of the day or night.

101.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

a. As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.
b. When an investigator enters an adjoining state in close or fresh pursuit of a person believed to have committed a felony (ARS § 13-3832; NRS 171.158; ORS 133.430).

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

101.5 CONSTITUTIONAL REQUIREMENTS

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

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Chief Executive Officer

102.1 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.

102.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

Any chief executive officer of this bureau 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

103.1 PURPOSE AND SCOPE

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

103.2 POLICY

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

103.3 OATH OF OFFICE

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

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

103.4 MAINTENANCE OF RECORDS

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

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Policy Manual

104.1 PURPOSE AND SCOPE

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

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

104.2 POLICY

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

104.2.1 DISCLAIMER

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

104.3 AUTHORITY

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

104.4 DEFINITIONS

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

Adult - Any person 18 years of age or older.

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

CHP- The California Highway Patrol.

CFR - Code of Federal Regulations.

County - The County of San Joaquin.

Professional Staff - Employees and volunteers who are not sworn peace officers.

DepartmentOffice/agencyAcronym - The San Joaquin County District Attorney's Office.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the bureau.

Juvenile- Any person under the age of 18 years.

Manual - The San Joaquin County District Attorney's Office Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

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

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

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

On-duty - A member’s status during the period when he/she is actually engaged in the performance of his/her assigned duties.

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

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.

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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 bureau members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

The term "supervisor" may also include any person (e.g., investigator-in-charge, lead or senior 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 bureau member on-duty, that person may also be the supervisor, except when circumstances reasonably require the notification or involvement of the member’s off-duty supervisor or an on-call supervisor.

USC - United States Code.

104.5 ISSUING THE POLICY MANUAL

An electronic version of the Policy Manual will be made available to all members on the bureau network for viewing and printing. No changes shall be made to the manual without authorization from the 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 Departmental Directives. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

104.6 PERIODIC REVIEW OF THE POLICY MANUAL

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

104.7 REVISIONS TO POLICIES

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

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

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

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

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Chapter 2 - Organization and Administration

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Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

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

200.2 DIVISIONS

The Chief Investigator is the executive manager responsible for administering and managing the San Joaquin County District Attorney's Office. Aiding the Chief Investigator is the Assistant Chief Investigator, an executive manager having authority and responsibility over the bureau of investigation divisions. There are four divisions in the bureau as follows:

- Administration Division
- Criminal Division
- Special Operations Division
- Public Assistance Fraud Division

200.2.1 ADMINISTRATION DIVISION

The Administration/Personnel Background Division is supervised by one lieutenant responsible for bureau training, issued equipment, firearms qualification, property evidence room, CLETS Coordination, Forensic Digital Evidence team, crime analysts, background investigations (sworn and non-sworn) and policy and procedure updates.

200.2.2 CRIMINAL DIVISION

The Criminal Division is supervised by one lieutenant, two Sergeants and is comprised of six different teams. These teams include Mainline Trial Prep, Public Integrity/Internal Affairs, Major Crimes, Cold Case Homicide/Post Conviction Review Unit, Family Crimes (CASA and Domestic Violence), Elder Abuse and Subpoena Team.

200.2.3 SPECIAL OPERATIONS DIVISION

The Special Operations Division is supervised by one lieutenant and one sergeant and is comprised of several specialty teams and task forces. The following are teams and task forces within the Special Operations Division: Protective Services Unit (PSU), Insurance Fraud, Environmental Protection Unit (EPU) / Consumer Fraud, Real Estate Fraud, ID Theft/Piracy Unit, Delta RATT, Child Abduction, Human Trafficking, Fentanyl Homicide Team, AB109 Task Force, METRO Narcotics Task Force, AGNET (SJSO), Marshals Task Force.

200.2.4 PUBLIC ASSISTANCE FRAUD DIVISION

The Public Assistance Fraud division is supervised by one lieutenant and one sergeant, and is comprised of the welfare fraud team (I.M.P.A.C.T.) and In Home Support Services (IHSS). This unit is funded by San Joaquin County Human Services Agency.

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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 will designate the Assistant Chief to serve as the acting Chief Investigator.

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

a. Lieutenant
b. Sergeant

200.3.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the bureau. Generally, each employee shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment (e.g., DELTARATT, AB109 Task Force, FBI, Sheriff's AGNET, Human Trafficking Task Force), any supervisor may temporarily direct any subordinate if an operational necessity exists.

200.3.3 ORDERS

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

200.4 ORGANIZATIONAL CHART

The Chief Investigator or the authorized designee is responsible for developing and maintaining an organizational chart which shall be accessible to all members. The organizational chart shall be reviewed and updated annually and whenever structural changes occur.

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Department Directives

201.1 PURPOSE AND SCOPE

Departmental 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. Departmental Directives will immediately modify or change and supersede sections of this manual to which they pertain.

201.1.1 PROTOCOL

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

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

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

201.2 RESPONSIBILITIES

201.2.1 STAFF

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

201.2.2 CHIEF INVESTIGATOR

The Chief Investigator shall issue all Departmental Directives.

201.3 ACCEPTANCE OF DEPARTMENT DIRECTIVES

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

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Emergency Management Plan

202.1 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).

202.2 ACTIVATING THE EMERGENCY PLAN

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

202.2.1 RECALL OF PERSONNEL

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

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

202.3 LOCATION OF THE PLAN

The Emergency Management Plan is available through the Chief Investigator or their designee. All supervisors should familiarize themselves with the Emergency Management Plan. The Administration supervisor should ensure that bureau personnel are familiar with the roles bureau personnel will play when the plan is implemented.

202.4 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.

202.5 BUREAU LIEUTENANT RESPONSIBILITIES

The bureau lieutenant, or the authorized designee, is responsible for:

a. Planning, developing, and maintaining the bureau's response to major disasters or other emergency events in accordance with the Emergency Management Plan.
b. Ensuring equipment designated for use during major disasters and other emergency events is inspected at least twice annually to ensure operational readiness.

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Training

203.1 PURPOSE AND SCOPE

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

203.2 POLICY

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

203.3 PHILOSOPHY

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

203.4 OBJECTIVES

The objectives of the Training Program are to:

a. Enhance the level of law enforcement service to the public.
b. Increase the technical expertise and overall effectiveness of our personnel.
c. Provide for continued professional development of bureau personnel.
d. Ensure compliance with POST rules and regulations concerning law enforcement training.

203.5 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.

203.5.1 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)).

203.6 TRAINING PLAN

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A training plan will be developed and maintained by the Administrative Lieutenant. It is the responsibility of the Administrative Lieutenant to maintain, review, and update the training plan on an annual basis.

203.6.1 POST-MANDATED TRAINING

Members of the bureau shall complete all POST-mandated training, including (Penal Code § 13510; 11 CCR § 1005):

a. Entry-level training standards, prior to being assigned duties that include the exercise of peace officer power.
b. At least 24 hours of POST-certified and/or POST-approved training every two years.

203.6.2 [CIVILIANNOSWORN] ORIENTATION

The Administrative Lieutenant or the authorized designee shall provide all newly appointed professional staff members with information and instruction regarding the following:

a. Bureau mission, values, and organizational structure (see the Organizational Structure and Responsibility Policy)
b. Code of conduct and ethics (see Standards of Conduct Policy)
c. Confidentiality and records handling (including CJIS compliance, if applicable)
d. Workplace harassment and discrimination prevention (see the Discriminatory Harassment Policy)
e. Safety procedures and emergency protocols
f. Relevant bureau policies and procedures
g. Role-specific expectations and duties

203.6.3 LEADERSHIP DEVELOPMENT

The Administrative Lieutenant or the authorized designee shall establish a plan to train and develop personnel for future leadership responsibilities, including fair and appropriate professional development opportunities (e.g., mentorship, leadership training or academies, rotational or acting assignments, other opportunities designed to enhance supervisory and management knowledge, skills, and abilities).

203.7 TRAINING PROCEDURES

Bureau members may be directed to, volunteer for, or request to attend training, conferences, and other job related functions that have a direct and relevant/substantial impact upon their ability to perform their assigned duties and responsibilities.

Members who wish to attend training not offered by the bureau must submit a Request for Training Form through the member's chain of command to the Administrative Division at least 30 days prior to the start of the requested training. Upon approval, the member will be notified of the finalized travel and lodging arrangements. Members shall not book their own training/travel arrangements, without authorization from the Administrative Lieutenant.

All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor

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203.8 DAILY TRAINING BULLETINS

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

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

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

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

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Electronic Mail

204.1 PURPOSE AND SCOPE

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

204.2 EMAIL RIGHT OF PRIVACY

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

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

204.3 PROHIBITED USE OF EMAIL

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

Email messages addressed to the entire bureau are only to be used for official business related items that are of particular interest to all users.

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

204.4 EMAIL RECORD MANAGEMENT

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

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

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Administrative Communications

205.1 PURPOSE AND SCOPE

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

205.2 PERSONNEL ORDERS

Department 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.

205.3 CORRESPONDENCE

In order to ensure that the letterhead and name of the San Joaquin County District Attorney's Office are not misused, all external correspondence shall be on District Attorney letterhead. All District Attorney letterhead shall bear the elected District Attorney's name as well as the name of the Assistant District Attorney. Personnel should use bureau letterhead only for official business.

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Retiree Concealed Firearms

206.1 PURPOSE AND SCOPE

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

206.2 POLICY

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

206.3 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 this bureau.
c. Has not been disqualified for reasons related to mental health.
d. Has not entered into an agreement with this bureau where the investigator acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.
e. Is not prohibited by federal law from receiving or possessing a firearm.

206.3.1 LEOSA IDENTIFICATION CARD FORMAT

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

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

206.3.2 AUTHORIZATION

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

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

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1. An indication from the person’s former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.
2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.

2. Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
3. Not prohibited by federal law from receiving a firearm.
4. Not in a location prohibited by California law or by a private person or entity on his/her property if such prohibition is permitted by California law.

206.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE

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

a. For the purpose of this policy, honorably retired includes all peace officers who have qualified for, and accepted, a service or disability retirement. It shall not include any investigator who retires in lieu of termination.
b. No CCW Approved endorsement shall be issued to any investigator retiring because of a psychological disability (Penal Code § 26305).

206.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT

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

a. A photograph of the retiree.
b. The retiree’s name and date of birth.
c. The date of retirement.
d. The name and address of this bureau.
e. A stamped CCW Approved endorsement along with the date by which the endorsement must be renewed (not more than one year). If a CCW endorsement has been denied or revoked, the identification card shall be stamped “No CCW Privilege.”

206.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

The San Joaquin County District Attorney's Office 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.

206.5 FORMER INVESTIGATOR RESPONSIBILITIES

A former investigator with a card issued under this policy shall immediately notify the Bureau Administrative Lieutenant 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.

206.5.1 RESPONSIBILITIES UNDER LEOSA

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

a. Sign a waiver of liability of the bureau for all acts taken related to carrying a concealed firearm, acknowledging both his/her personal responsibility as a private person for all acts taken when carrying a concealed firearm as permitted by LEOSA and also that these acts were not taken as an employee or former employee of the bureau.
b. Remain subject to all applicable bureau policies and federal, state and local laws.
c. Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.
d. May be required to pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

206.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT

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

a. Qualify at least once every three years with the authorized firearm at a course approved by this departmentoffice at the retired officer_deputy's expense.
b. Remain subject to all applicable departmentoffice policies and federal, state and local laws.
c. Not engage in conduct that compromises public safe
d. tUndergo a fingerprint-based state and national criminal history background check when required by the [DepartmentOffice] (Penal Code § 26330)y.

206.6 DENIAL, SUSPENSION, OR REVOCATION OF A LEOSA IDENTIFICATION CARD

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A LEOSA identification card may be denied or revoked upon a showing of good cause as determined by the bureau. 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.

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

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

a. In the event that a CCW endorsement is initially denied, the retired investigator shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.
b. Prior to revocation of any CCW endorsement, the bureau shall provide the affected retiree with written notice of a hearing by either personal service or first-class mail, postage prepaid, return receipt requested to the retiree's last known address (Penal Code § 26315).
    1. The retiree shall have 15 days from the date of service to file a written request for a hearing.
    2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).
    3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.
c. A hearing for the denial or revocation of any CCW endorsement shall be conducted before a hearing board composed of three members, one selected by the 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."
d. 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.
    1. Notification of the temporary suspension should also be promptly mailed to the retiree via first class-mail, postage prepaid, return receipt requested (Penal Code § 26312).
    2. 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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3. The personal and written notification should be as follows:
    1. The retiree's CCW endorsement is immediately and temporarily suspended.
    2. The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
    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.
4. 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.

206.8 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.

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Budget Management

207.1 PURPOSE AND SCOPE

This policy provides guidelines for bureau budget management and accounting.

207.2 POLICY

The San Joaquin County District Attorney's Office endeavors to appropriately obtain, manage, review, and audit bureau funds.

207.3 FISCAL MANAGEMENT

The Chief Investigator is responsible for the bureau's fiscal management and shall have responsibility and authority over the financial affairs of the bureau, including fiscal activities delegated to members.

207.4 BUDGET PREPARATION AND MANAGEMENT

Each lieutenant or the authorized designee shall be responsible for preparing an annual budget proposal for review by the Chief Investigator.

Adopted budgets should be reviewed and monitored periodically by lieutenant's so expenditures do not exceed allocated funds.

207.4.1 ACCOUNTING

The Administrative Lieutenant shall be responsible for developing and maintaining accounting procedures that describe internal controls, ongoing monitoring, reconciliations, and audit procedures for all budget and fiscal activity. These procedures shall also include approval of each account and provisions for monthly status reports including, but not limited to:

- The initial appropriation for each account or program.
- The beginning balance for the period.
- Expenditures and encumbrances made during the reporting period.
- The unencumbered balance of the account or program.

Accounting practices for cash accounts are described in the Cash Handling, Security and Management Policy.

207.5 AUDITS

Audits of the bureau's internal budget and other fiscal activities shall be completed as required by applicable laws, policies, and procedures, and couty requirements.

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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 FAIR AND UNBIASED USE OF FORCE

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

300.2.2 DUTY TO INTERCEDE

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

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

300.2.3 FAILURE TO INTERCEDE

District Attorney 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)).

300.2.4 DUTY TO REPORT EXCESSIVE FORCE

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

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

300.3 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.

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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.

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

300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, investigators 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 and feasible, investigators shall evaluate the totality of circumstances presented at the time in each situation and, when reasonable and feasible, shall determine and utilize reasonably available de-escalation techniques, crisis intervention tactics, and other alternatives, if any, 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)).

300.3.2 USE OF FORCE TO EFFECT AN ARREST

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

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an investigator has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit (Government Code § 7286 (b)). These factors include but are not limited to:

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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 their ability to resist despite being restrained.
j. The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
k. Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.
l. Training and experience of the investigator.
m. Potential for injury to investigators, suspects, bystanders, and others.
n. Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the investigator.
o. The risk and reasonably foreseeable consequences of escape.
p. The apparent need for immediate control of the subject or a prompt resolution of the situation.
q. Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the investigator or others.
    1. Force shall be de-escalated once compliance or control is achieved (see the **ALTERNATIVE TACTICS - DE-ESCALATION** section above).
r. Prior contacts with the subject or awareness of any propensity for violence.
s. Any other exigent circumstances.

300.3.4 PAIN COMPLIANCE TECHNIQUES

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

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

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

300.3.5 RESTRICTIONS ON THE USE OF CAROTID CONTROL HOLD

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

300.3.6 RESTRICTIONS ON THE USE OF A CHOKE HOLD

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

300.3.7 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).

300.3.8 USE OF FORCE TO SEIZE EVIDENCE

In general, investigators may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, investigators are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, investigators should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Investigators are encouraged to use techniques and methods taught by the San Joaquin County District Attorney's Office for this specific purpose.

300.3.9 WARNINGS BEFORE USE OF FORCE

Verbal warnings should precede the use of force when practical and tactically feasible.

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)).

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The use of deadly force is only justified when the investigator reasonably believes it is necessary in the following circumstances (Penal Code § 835a):

a. District Attorney 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. District Attorney 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).

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. District Attorney 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. District Attorney 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.

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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.

300.5.1 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).

300.5.2 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.

300.5.3 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2. See the Records Section Policy.

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300.6 MEDICAL CONSIDERATIONS

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

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

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

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

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

See the Medical Aid and Response Policy for additional guidelines.

300.7 SUPERVISOR RESPONSIBILITY

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

a. Obtain the basic facts from the involved investigators. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
b. Ensure that any injured parties are examined and treated.
c. When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:
    1. The content of the interview should not be summarized or included in any related criminal charges.

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2. The fact that a recorded interview was conducted should be documented in a property or other report.
3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.

d. Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
e. Identify any witnesses not already included in related reports.
f. Review and approve all related reports.
g. Determine if there is any indication that the subject may pursue civil litigation.
    1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
h. Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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

300.7.1 LIEUTENANT RESPONSIBILITY

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

300.8 USE OF FORCE COMPLAINTS

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

300.9 TRAINING

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

300.9.1 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).

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

300.9.2 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)).

Additionally, training should include training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

300.10 USE OF FORCE ANALYSIS

At least annually, the Lieutenant may 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:

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.

300.11 POLICY REVIEW

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

300.12 POLICY AVAILABILITY

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

300.13 PUBLIC RECORDS REQUESTS

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

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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 San Joaquin County District Attorney's Office authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy, the Transporting Persons in Custody 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 San Joaquin County District Attorney's Office-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, investigators should carefully balance officer safety concerns with factors that include but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing in 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 restraints, 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 themself or others, or damage property.

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No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances, and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the detainee, investigators, or others (Penal Code § 3407; Penal Code § 6030). See the Transporting Persons in Custody Policy for guidelines relating to transporting pregnant persons.

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.

301.4 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.

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

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

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

301.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg restraints, 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:

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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.
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 their 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 their 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.

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

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.
c. Options for restraining those who may be pregnant without the use of leg restraints, 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.
e. Proper placement of safely secured persons into an upright or seated position to avoid placement on the stomach for an extended period, as this could reduce the person's ability to breathe.

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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 San Joaquin County District Attorney's Office authorizes investigators to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

302.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

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

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

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

302.4 RESPONSIBILITIES

302.4.1 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.

302.4.2 USER RESPONSIBILITIES

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

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

302.5 BATON GUIDELINES

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

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

302.6 OLEORESIN CAPSICUM (OC) GUIDELINES

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

302.6.1 OC SPRAY

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

302.6.2 TREATMENT FOR OC SPRAY EXPOSURE

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

302.7 POST-APPLICATION NOTICE

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

302.8 TRAINING FOR CONTROL DEVICES

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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.

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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Conducted Energy Device

303.1 PURPOSE AND SCOPE

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

303.2 POLICY

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

303.3 ISSUANCE AND CARRYING CEDS

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

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

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

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

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

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

Investigators may secure the CED in a concealed, secure location in the driver's compartment of their vehicles.

303.3.1 USER RESPONSIBILITIES

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

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

303.4 VERBAL AND VISUAL WARNINGS

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A verbal warning of the intended use of the CED should precede its application, unless it would otherwise endanger the safety of investigators or when it is not practicable due to the circumstances. The purpose of the warning is to:

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

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

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

303.5 USE OF THE CED

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

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

303.5.1 APPLICATION OF THE CED

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

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

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

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

303.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the CED on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the investigator, the subject or others, and the investigator reasonably believes that the need to control the individual outweighs the potential risk of using the device. This includes:

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

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

303.5.3 TARGETING CONSIDERATIONS

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

303.5.4 MULTIPLE APPLICATIONS OF THE CED

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

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

303.5.5 ACTIONS FOLLOWING DEPLOYMENTS

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

303.5.6 DANGEROUS ANIMALS

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

303.5.7 OFF-DUTY CONSIDERATIONS

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

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

303.6 DOCUMENTATION

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

303.6.1 REPORTS

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

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

303.7 MEDICAL TREATMENT

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

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

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

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

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

303.8 SUPERVISOR RESPONSIBILITIES

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

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

303.9 TRAINING

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

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

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

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

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

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

The Administrative Lieutenant should include the following training:

a. A review of this policy.
b. A review of the Use of Force Policy.

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

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Officer-Involved Shootings and Deaths

304.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of 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.

304.2 POLICY

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

304.3 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 officer’s actions.
- An administrative investigation as to policy compliance by involved investigators.
- A civil investigation to determine potential liability.

304.4 CONTROL OF INVESTIGATIONS

San Joaquin County District Attorney's Office Bureau of Investigation conforms to the Officer Involved Critical Incident Protocol. Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

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

304.4.1 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

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..

304.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

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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 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.

304.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

Regardless of where the incident occurs, the administrative and civil investigation of each involved officer is controlled by the respective employing agency.

304.5 INVESTIGATION PROCESS

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

304.5.1 UNINVOLVED INVESTIGATOR RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting, the first uninvolved SJCDA 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.

304.5.2 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the first uninvolved SJCDA supervisor should ensure completion of the duties as outlined above, plus:

1. Attempt to obtain a brief overview of the situation from any uninvolved officers.
    1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
2. If necessary, the supervisor may administratively order any SJCDA 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 officer to provide any information other than public safety information.

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3. Provide all available information to the Lieutenant and the Communications Center. If feasible, sensitive information should be communicated over secure networks.
4. Take command of and secure the incident scene with additional SJCDA members until properly relieved by a supervisor of the jurisdiction of where the incident occurred.
5. As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
    1. Each involved SJCDA investigator should be given an administrative order not to discuss the incident with other involved officers or SJCDA members pending further direction from a supervisor.
    2. When an involved officer'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.

304.5.3 LIEUTENANT RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Lieutenant shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief Investigator or a Lieutenant.

All outside inquiries about the incident shall be directed to the Lieutenant.

304.5.4 NOTIFICATIONS

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

- Chief Investigator
- Criminal InvestigationsLieutenant
- Officer Involved Critical Incident Protocol on call team
- Venue agency investigations unit
- Internal Affairs supervisor
- Psychological/peer support personnel
- Chaplain
- Medical Examiner (if necessary)
- Involved officer's agency representative (if requested)
- Public Information Officer

304.5.5 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 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.

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

304.5.6 INVOLVED OFFICERS

The following shall be considered for the involved officer:

1. Any request for legal or union representation will be accommodated.
    1. Involved SJCDA 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-SJCDA officers should be referred to their employing agency.
2. Discussions with licensed attorneys will be considered privileged as attorney-client communications.
3. Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).
4. A licensed psychotherapist shall be provided by the bureau to each involved SJCDA investigator. A licensed psychotherapist may also be provided to any other affected SJCDA members, upon request.
    1. Interviews with a licensed psychotherapist will be considered privileged.
    2. 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.
    3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
5. Communications between the involved investigator and a peer support member are addressed in the Wellness Program Policy.

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

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

304.6 CRIMINAL INVESTIGATION

The Officer Involved Critical Incident Protocol will govern the process for conducting a criminal investigation.

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

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a. SJCDA supervisors and Internal Affairs personnel should not participate directly in any voluntary interview of SJCDA investigators. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
b. If requested, any involved officer will be afforded the opportunity to consult individually with a representative of the officer's choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain 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 officer 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 officer to schedule an alternate time for the interview.
d. Any voluntary statement provided by an involved officer 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 officer consents.

304.6.1 REPORTS BY INVOLVED SJCDA INVESTIGATORS

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

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

Nothing in this section shall be construed to deprive an involved SJCDA 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.

304.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an officer-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 probable cause to arrest. Without detaining the

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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.

304.6.3 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the designated Bureau of Investigation supervisor to assign appropriate investigative personnel to handle the investigation of related crimes, if not investigated by the venue agency.

All related bureau reports, except administrative and/or privileged reports, will be forwarded to the designated Bureau of Investigation supervisor for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the appropriate Lieutenant.

304.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this bureau will conduct an internal administrative investigation of SJCDA investigators to determine conformance with bureau policy. The investigation will be conducted under the supervision of the Internal Affairs 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.
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.

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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 investigator. The 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 Internal Affairs shall compile all relevant information and reports necessary for the bureau to determine compliance with applicable policies.
6. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

304.8 CIVIL LIABILITY RESPONSE

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

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

304.9 AUDIO AND VIDEO RECORDINGS

Any officer involved in a shooting or death may be permitted to review available Mobile Audio/Video (MAV), body-worn video, or other video or audio recordings prior to providing a recorded statement or completing reports.

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

Any MAV, body-worn and other known video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or County Counsel’s Office, as appropriate.

304.10 DEBRIEFING

Following an officer-involved shooting or death, the San Joaquin County District Attorney's Office should conduct both a Critical Incident Stress Debriefing and a tactical debriefing. See the Wellness Program Policy for guidance on Critical Incident Stress Debriefings.

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304.10.1 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.

304.11 MEDIA RELATIONS

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

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

304.12 REPORTING

If the death of an individual occurs in the San Joaquin County District Attorney's Office jurisdiction and qualifies to be reported to the state as a justifiable homicide, the Administrative Lieutenant will provide all necessary data to meet the reporting requirements (Penal Code § 196; Penal Code § 13022).

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Firearms

305.1 PURPOSE AND SCOPE

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

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

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

305.2 POLICY

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

305.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the bureau and have been thoroughly inspected by the 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 other weapons not provided by the bureau, including but not limited to edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by bureau policy, may not be carried by members in the performance of their official duties without the express written authorization of the member’s Lieutenant. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

305.3.1 HANDGUNS

The authorized bureau-issued handgun is the Glock Model 19 9mm.

305.3.2 PATROL RIFLES

The authorized bureau-issued patrol rifle is the Sig Sauer M400 5.56.

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.

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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 consistent with bureau training.

305.3.3 PERSONALLY OWNED DUTY FIREARMS

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

a. The firearm shall be in good working order and on the bureau list of approved firearms.
b. The firearm shall be chambered in 9mm.
c. The firearm shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
d. Prior to carrying the firearm, 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 firearm functions properly.
e. Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.

305.3.4 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 personally owned secondary handgun and ammunition shall be the responsibility of the member.
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.
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.

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305.3.5 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).

305.3.6 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 qualification. Replacements for unserviceable or depleted ammunition issued by the bureau shall be dispensed by the Rangemaster when needed, in accordance with established policy.

305.4 EQUIPMENT

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

305.4.1 REPAIRS OR MODIFICATIONS

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

305.4.2 HOLSTERS

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

305.4.3 TACTICAL LIGHTS

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

305.4.4 OPTICS OR LASER SIGHTS

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

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

305.5 SAFE HANDLING, INSPECTION AND STORAGE

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

a. Members shall not unnecessarily display or handle any firearm.
b. Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the 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, except where clearing barrels are present.
d. Shotguns or rifles removed from vehicles or the equipment storage room shall be loaded and unloaded in the parking lot and outside of the vehicle, using clearing barrels when available. In all other cases, due care should be directed at keeping the muzzle pointed in a safe direction while loading and unloading. .
e. Members shall not place or store any firearm or other weapon on bureau premises except where the place of storage is locked. No one shall carry firearms into the jail section or any part thereof when securing or processing an arrestee, but shall place all firearms in a secured location. Members providing access to the jail section to persons from outside agencies are responsible for ensuring firearms are not brought into the jail section.
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.

305.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly and upon access or possession by another person. Rifles shall be regularly inspected 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 their vehicle and shall be pointed in a safe direction or into clearing barrels, when available.

Personally owned firearms may be safely stored in lockers at the end of the shift. [departmentoffice]-owned firearms shall be stored in the appropriate equipment storage room. 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 room.

When unattended, all firearms shall be stored securely in a bureau safe or bureau armory. Handguns may remain loaded if they are secured in an appropriate holster. Rifles shall be unloaded in a safe manner and stored in the designated locations.

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305.5.2 STORAGE AT HOME

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

305.5.3 ADDITIONAL GUIDELINES FOR 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).

305.5.4 ALCOHOL AND DRUGS

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

305.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete training and qualify semi-annually with their duty firearms. Training and qualifications must be on an approved range course.

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

305.6.1 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:

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

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

305.7 FIREARM DISCHARGE

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

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

a. If on-duty at the time of the incident, the member shall file a written report with his/her Lieutenant or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.
b. If off-duty at the time of the incident, the member shall file a written report or provide a recorded statement no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

305.7.1 DESTRUCTION OF ANIMALS

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

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.

305.7.2 INJURED ANIMALS

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

Stray or abandoned injured animals that may be moved or taken to an available veterinarian should not be euthanized. With supervisor approval, abandoned injured animals (with the exception of dogs and cats) may only be

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euthanized after a reasonable search to locate the owner has been made. Injured dogs and cats found without their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed (Penal Code § 597.1).

305.7.3 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.

305.8 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 [trainingManager] 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 [departmentoffice] to verify proper operation. The Rangemaster has the authority to deem any [departmentoffice]-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to his/her personally owned firearm and it will not be returned to service until inspected by the Rangemaster.

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

The [Rangemaster] shall complete and submit to the [trainingManager] documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the [departmentoffice], 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 [trainingManager].

305.9 FLYING WHILE ARMED

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

a. Investigators wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the bureau based on the law and published TSA rules.
b. Investigators must carry their San Joaquin County District Attorney's Office identification card, bearing the investigator’s name, a full-face photograph, identification number, the investigator’s signature and the signature of the Chief Investigator or the official seal of the bureau and must present this identification to

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airline officials when requested. The investigator should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).

c. The San Joaquin County District Attorney's Office must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the investigator's travel. If approved, TSA will send the San Joaquin County District Attorney's Office an NLETS message containing a unique alphanumeric identifier. The investigator must present the message on the day of travel to airport personnel as authorization to travel while armed.
d. An official letter signed by the Chief Investigator authorizing armed travel may also accompany the investigator. The letter should outline the investigator's need to fly armed, detail his/her itinerary, and include that the investigator has completed the mandatory TSA training for a law enforcement officer flying while armed.
e. Investigators must have completed the mandated TSA security training covering investigators flying while armed. The training shall be given by the bureau-appointed instructor.
f. It is the investigator's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
g. Any investigator flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
h. Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The investigator must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
i. Investigators should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
j. Investigators shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

305.10 CARRYING FIREARMS OUT OF STATE

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

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

Investigators are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property, installation, building, base or park. Federal authority may not shield an investigator from arrest and prosecution in such locally restricted areas.

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

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Vehicle Pursuits

306.1 PURPOSE AND SCOPE

This policy provides guidelines for vehicle pursuits in order to protect the safety of involved investigators, the public, and fleeing suspects (Vehicle Code § 17004.7).

306.1.1 DEFINITIONS

Definitions related to this policy include:

Blocking - A preventive maneuver where emergency vehicles are strategically positioned to prevent a suspect from moving their vehicle, usually before a pursuit starts or at low speeds.

Boxing-in - A low-speed tactic designed to stop a fleeing vehicle by surrounding it with emergency vehicles and then slowing all vehicles to a stop.

Pursuit Intervention Technique (PIT) - A low-speed tactic designed to apply lateral pressure to the rear quarter panel of a fleeing vehicle, causing it to spin out, stall, and come to a stop (also known as a Precision Immobilization Technique).

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

Roadblock - A tactic designed to stop a fleeing vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the fleeing vehicle.

Tire deflation device - A device designed to be placed on the roadway and puncture the tires of a fleeing vehicle, sometimes referred to as spike strips.

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

306.2 POLICY

It is the policy of this bureau to balance the need to apprehend a fleeing suspect with the risks associated with vehicle pursuits.

306.3 INITIATING A PURSUIT

Investigators who have received appropriate training are authorized to initiate a vehicle pursuit when the need to apprehend a fleeing suspect clearly outweighs the risks a vehicle pursuit poses for investigators and the public.

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When balancing the risk of a pursuit with the need to apprehend the suspect, investigators shall consider:

a. The seriousness of the known or reasonably suspected crime committed by the suspect and the threat to the safety of the public if the suspect remains at large.
b. Whether the identity of the suspect is known with enough certainty to enable apprehension at a later time.
c. The speed of the vehicles relative to the conditions of the area, such as the population density, amount of vehicular and pedestrian traffic (e.g., school zones), time of day, road conditions, environmental conditions (e. g., hills, curves, mountains), and weather conditions.
d. The pursuing investigator's driving capabilities, familiarity with the area, and quality of radio communications with the dispatcher/supervisor.
e. The nature of the pursuing unit (e.g., marked vs. unmarked) and its speed and performance capabilities in relation to the fleeing vehicle (e.g., performance motorcycle).
f. Whether there are other persons in or on the fleeing vehicle and their relationship to the situation (e.g., passengers, co-offenders, hostages).
g. Whether the pursuing unit is carrying passengers other than on-duty bureau investigators. Pursuits should not be undertaken with an arrestee in the pursuit vehicle unless exigent circumstances exist.
h. The availability of other resources such as air support or vehicle locator/deactivation technology.

306.4 PURSUIT UNITS

Vehicle pursuits should be limited to three [departmentoffice] emergency vehicles (two pursuit units and the supervisor vehicle). However, [an_officer-deputy] or supervisor may request that additional units join a pursuit if, after assessing the factors outlined above, it reasonably appears that the number of [officers_deputies] involved may be insufficient to safely arrest the number of suspects.

306.4.1 EMERGENCY EQUIPMENT

Vehicle pursuits shall only be conducted using authorized [departmentoffice] vehicles that are equipped with emergency lighting and sirens as required by Vehicle Code § 21055. Each pursuit unit's emergency lights and sirens should remain activated throughout the unit's participation in the pursuit.

[Officers_Deputies] operating vehicles not equipped with emergency lights and siren are prohibited from pursuing a fleeing vehicle or joining a pursuit. [Officers_Deputies] in such vehicles may provide support to pursuing units when needed, but should operate the vehicle in compliance with all traffic laws and should discontinue such support immediately upon arrival of a sufficient number of authorized emergency vehicles or any air support.

306.4.2 PRIMARY UNIT

The initial pursuing investigator should be designated as the primary unit and will be responsible for the conduct of the pursuit unless that unit is unable to remain reasonably close to the suspect's vehicle. The primary responsibility of the investigator initiating the pursuit is the apprehension of the suspect without unreasonable danger to themself or others.

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As soon as practicable, the primary unit should notify the Communications Center of the pursuit, request priority radio traffic, and provide appropriate information including:

a. The location, direction of travel, and estimated speed of the pursuit.
b. The description of the fleeing vehicle, including the license plate number, if known.
c. The reason for the pursuit.
d. A description of the fleeing vehicle's evasive driving behavior (e.g., rapid lane changes, no headlights, driving on the wrong side of the road).
e. Known or suspected weapons, threat of force, violence, injuries, hostages, or other unusual hazards.
f. The suspected number of occupants and their identities or descriptions.
g. The weather, road, and traffic conditions.
h. The need for any additional resources or equipment.
i. The identities of other law enforcement agencies involved in the pursuit.

The primary unit is responsible for broadcasting the progress of the pursuit until a secondary or air unit joins the pursuit. Once an additional unit joins the pursuit, the primary unit should relinquish the responsibility of broadcasting the progress to the secondary or air unit unless circumstances reasonably indicate otherwise.

306.4.3 SECONDARY UNIT

The second investigator in the pursuit should be designated as the secondary unit and is responsible for:

a. Notifying the Communications Center of their entry into the pursuit.
b. Broadcasting the progress of the pursuit, updating known or critical information, and providing changes in the pursuit, unless the situation indicates otherwise.
c. Identifying the need for and requesting additional resources or equipment as appropriate.
d. Serving as backup to the primary unit once the fleeing vehicle has been stopped.

306.4.4 AIR UNITS

When available, air unit assistance should be requested. The air unit should assume responsibility of broadcasting the pursuit once they have established visual content with the fleeing vehicle. Ground units should maintain operational control and consider whether the continued close proximity and/or involvement in the pursuit is warranted.

The air unit should coordinate the activities of resources on the ground, report progress of the pursuit, and provide pursuing units with details of upcoming traffic congestion, road hazards, or other information pertinent to evaluating whether to continue the pursuit. If ground units are not within visual contact of the fleeing vehicle and the air unit determines that it is unsafe to continue the pursuit, the air unit should recommend termination.

306.5 PURSUIT DRIVING

The decision to use specific driving tactics requires consideration of the same factors as initiating a pursuit. In addition, investigators involved in the pursuit should adhere to the following:

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a. Pursuing units should space themselves far enough from other involved vehicles to be able to see and avoid hazards and react safely to maneuvers by the fleeing vehicle.
b. Pursuing units should exercise caution and slow down as necessary when proceeding through intersections.
c. Pursuing units should not follow a fleeing vehicle driving against traffic (wrong way) and should instead:
    1. Request assistance from available air support.
    2. Maintain visual contact with the fleeing vehicle by paralleling it on the correct side of the roadway.
    3. Request other units to observe exits available to the fleeing vehicle.
d. Pursuing units should request that the Communications Center notify the California Highway Patrol (CHP) and/or another law enforcement agency if it appears that the pursuit may enter its jurisdiction.
e. Pursuing units should not attempt to pass other pursuit units unless the situation indicates otherwise or they are requested to do so. Passing another pursuit unit should only be attempted with a clear understanding of the maneuver.

306.5.1 RULES OF THE ROAD

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

Should high vehicle speeds be reached during a pursuit, investigators and supervisors should also consider these factors when determining the reasonableness of the speed of the pursuit:

a. Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
b. Pursuit speeds have exceeded the driving ability of the investigator.
c. Pursuit speeds are beyond the capabilities of the pursuit vehicle, thus making its operation unsafe.

306.5.2 INVESTIGATORS NOT INVOLVED IN THE PURSUIT

[Officers_Deputies] not directly involved in the pursuit should stay alert to its progress and location and may proceed safely to intersections ahead of the pursuit to warn cross traffic. When clearing intersections along the pursuit path, [officers_deputies] are authorized to use emergency equipment and should attempt to place their vehicles in locations that provide some safety or an escape route in the event of an unintended collision or a suspect intentionally trying to ram the [departmentoffice] vehicle.

Other than clearing intersections along the pursuit path, uninvolved [officers_deputies] should avoid operating under emergency conditions (emergency lights and siren).

When needed, non-pursuing [officers_deputies] and [officers_deputies] who have dropped out of the pursuit should respond to the pursuit termination point in a non-emergency manner, observing the rules of the road. [Officers_Deputies] should not parallel the pursuit route.

306.6 SUPERVISORY CONTROL AND RESPONSIBILITIES

The supervisor of the investigator initiating the pursuit, or if unavailable, the nearest supervisor, will be responsible for:

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a. Immediately notifying the involved units and the dispatcher of supervisory presence and ascertaining all reasonably available information in order to continuously assess the situation and risk factors associated with the pursuit.
b. Exercising management and control of the pursuit and, when appropriate, engaging in the pursuit to provide on-scene supervision.
c. Confirming that no more pursuing units than required are involved in the pursuit.
d. Directing that the pursuit be terminated if, in the supervisor's judgment, continuing the pursuit is not justified under the guidelines of this policy.
e. Assessing the emotional state of the investigators involved and directing an investigator to disengage from the pursuit if it appears they are unable to control their emotions.
f. Requesting additional assistance from air support, canines, or other resources, if available and appropriate.
g. Verifying that the proper radio channel is being used.
h. Confirming the Lieutenant has been notified of the pursuit.
i. Overseeing the notification and/or coordination of outside agencies.
j. Continuing the management and control of San Joaquin County District Attorney's Office units when a pursuit enters another jurisdiction.
k. Preparing documentation of the pursuit and conducting a post-pursuit review, as required.

306.6.1 LIEUTENANT RESPONSIBILITIES

Upon becoming aware that a pursuit has been initiated, the Lieutenant should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. The Lieutenant has the final responsibility for the coordination, control, and termination of a vehicle pursuit and shall be in overall command.

306.7 COMMUNICATIONS

Radio communications during a pursuit should be conducted on the primary channel of the jurisdiction in which the pursuit was initiated unless instructed otherwise by a supervisor or [dispatcher]. Involved units should, whenever available, switch radio communications to a tactical or emergency channel most accessible by participating agencies.

306.7.1 THE COMMUNICATIONS CENTER RESPONSIBILITIES

Upon notification or becoming aware that a pursuit has been initiated, the dispatcher is responsible for:

a. Clearing the radio channel of non-emergency traffic.
b. Coordinating pursuit communications of the involved units and personnel.
c. Broadcasting pursuit updates as well as other pertinent information as necessary.
d. Ensuring that a field supervisor is notified of the pursuit.
e. Notifying and coordinating with other involved or affected agencies as practicable.
f. Notifying the Lieutenant as soon as practicable.
g. Assigning an incident number and logging all pursuit activities.

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306.8 INTERJURISDICTIONAL CONSIDERATIONS

Unless entry into another jurisdiction is expected to be brief, the primary unit or supervisor should ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

306.8.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

When a pursuit enters another agency's jurisdiction, the primary unit or the supervisor should determine whether to request the other agency assume the pursuit, taking into consideration the distance traveled, familiarity with the area, and other pertinent facts.

Once another agency has agreed to assume the pursuit, pursuing units should relinquish control and discontinue participation unless the continued assistance of the San Joaquin County District Attorney's Office is requested by the agency assuming the pursuit. Upon relinquishing control of the pursuit, the involved investigators may, with supervisory approval, proceed to the termination point in order to provide information and assistance for the arrest of the suspect and reporting of the incident. The supervisor should coordinate such assistance with the assuming agency and obtain any information that is necessary for bureau reports.

306.9 PURSUIT INTERVENTION

Pursuit interventions should only be used when it reasonably appears that using the intervention will contain or prevent the pursuit, and the need to immediately stop the fleeing vehicle outweighs the risks of injury or death to investigators and others.

Pursuit interventions may be construed as a use of force, including deadly force, and are subject to the policies guiding such use. Investigators should consider the guidelines for the use of force when deciding how, when, where, and if a pursuit intervention should be employed. Refer to the Use of Force Policy for additional guidance.

Whenever practicable, an investigator should seek approval from a supervisor before employing any pursuit intervention to stop a fleeing vehicle. Investigators should not attempt a pursuit intervention unless they have received the appropriate training for the intervention being used.

306.9.1 PIT

The San Joaquin County District Attorney's Office Bureau of Investigation does not authorize the use of a PIT.

306.9.2 BOXING-IN OR BLOCKING

Boxing-in or blocking should only be used when the suspect's vehicle is stopped or traveling at a low speed.

Boxing-in requires the participation of multiple units and therefore must be carefully coordinated with all involved.

306.9.3 RAMMING AND ROADBLOCKS

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Ramming and roadblocks shall only be used when deadly force is warranted and all other reasonable alternatives have been exhausted or reasonably appear ineffective. The Chief Investigator or the authorized designee should maintain written procedures for safe and lawful implementation of roadblocks.

[Insert your agency's specific procedures for use of roadblocks consistent with standard 10.2.12 requirements - see the Guide Sheet for additional guidance.]

306.9.4 FIREARMS

Specific guidance on the use of a firearm during a vehicle pursuit is addressed in the Use of Force Policy.

306.10 TERMINATING A PURSUIT

The factors considered when initiating a pursuit should be continually reevaluated by pursuing units during the pursuit, as the circumstances and conditions change, and as new information becomes available. If at any time the risk of continuing the pursuit outweighs the need to immediately apprehend the suspect, the pursuit should be terminated.

In addition, a pursuit should be terminated when:

a. A supervisor directs the pursuit to be terminated.
b. The location of the fleeing vehicle is no longer known.
c. The distance between the pursuing units and the fleeing vehicle is so great that further pursuit would be futile or would continue for an unreasonable time and/or distance.
d. The pursuing unit sustains damage or a mechanical failure that makes it unsafe to drive or renders the emergency lighting and sirens partially or completely inoperable and there are no additional units readily available to take over the pursuit.

When a pursuit terminates for any reason, all pursuit units should verbally acknowledge termination, turn off emergency lights and sirens, reduce their speed, and obey all traffic laws. The primary unit should communicate the location of pursuit termination to the dispatcher.

306.10.1 LOSS OF PURSUED VEHICLE

When a pursuit is terminated because the location of the fleeing vehicle is no longer known, the primary unit should broadcast pertinent information for other units to assist in locating the suspect. The primary unit or supervisor will be responsible for coordinating any further search for the pursued vehicle.

306.10.2 APPREHENSION OF SUSPECTS

Investigators should exercise proper self-discipline and sound professional judgment at the conclusion of a pursuit and while apprehending the suspect.

Unless otherwise directed by a supervisor, an investigator other than the primary unit should coordinate efforts to apprehend the suspect following the pursuit.

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Any use of force necessary to apprehend the suspect shall be consistent with the Use of Force Policy.

306.11 DEBRIEFING

Participating investigators should return to the Bureau as soon as practical following a pursuit to debrief with a supervisor.

306.12 REPORTING REQUIREMENTS

Appropriate reports should be completed as required by applicable laws, policies, and procedures.

a. Pursuing investigators should complete appropriate crime/arrest and pursuit reports.
b. The involved supervisor, or if unavailable, another bureau supervisor, shall obtain available information and promptly complete appropriate written notification to the Chief Investigator or the authorized designee. The notification should briefly summarize the pursuit and include, at a minimum:
    1. Date and time of the pursuit.
    2. Reason and circumstances surrounding the pursuit (e.g., seriousness of the crime, road and traffic conditions, speed and driving behavior of the fleeing vehicle) that warranted initiation and continuation of the pursuit.
    3. Length of pursuit in distance and time, including the starting and termination points.
    4. Involved vehicles and investigators.
    5. Alleged offenses.
    6. Whether a suspect was apprehended, as well as the means and methods used.
    7. Arrestee information, if applicable.
    8. Any injuries and/or medical treatment.
    9. Any property or equipment damage.
    10. Name of supervisor at the scene or who handled the incident.

After receiving copies of the written notification, reports, and other pertinent information, the Chief Investigator or the authorized designee shall conduct or assign a post-pursuit review, as appropriate.

The Chief Investigator should direct an annual documented review and analysis of bureau vehicle pursuits to minimally include policy suitability, policy compliance, and training or equipment needs. The review should not contain the names of investigators, suspects, or case numbers.

306.12.1 STATE-SPECIFIC REPORTING REQUIREMENTS

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

306.13 PURSUIT TRAINING

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The Administrative Lieutenant should ensure that members of this bureau receive initial and annual training on this policy and vehicle pursuits relevant to their role (e.g., investigators and supervisors).

Investigator training should address decision-making involved in initiating, continuing, and terminating a pursuit by balancing the need to apprehend the suspect with the risk of a pursuit. Subject to available resources, training on pursuit driving and the deployment of pursuit intervention tactics should include scenario-based training and behind-the-wheel practice, in addition to classroom instruction.

306.13.1 STATE-SPECIFIC TRAINING REQUIREMENTS

The Administrative Lieutenant shall make available to all investigators initial and supplementary POST training on pursuits required by Penal Code § 13519.8, Vehicle Code § 17004.7(d), and 11 CCR 1081, and no less than annual training addressing:

a. This policy.
b. The importance of vehicle safety and protecting the public.
c. The need to balance the known offense and the need for immediate capture against the risks to investigators and others.

306.14 POLICY ACKNOWLEDGEMENT

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

306.15 APPLICATION OF VEHICLE PURSUIT POLICY

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

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Emergency Code 3 Procedures

307.1 PURPOSE AND SCOPE

This policy provides for the safe and appropriate response to emergency situations.

307.2 RESPONSE TO CALLS

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

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

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

307.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of investigators, or assistance is needed to prevent imminent serious harm to a citizen.

307.4 INITIATING CODE 3 RESPONSE

If an investigator believes a Code-3 response to any incident is appropriate, the investigator shall immediately notify the Communications Center in the jurisdiction where the call or incident occurs. Generally, only one unit should respond Code-3 to any situation. Should another investigator believe a Code-3 response is appropriate, the Communications Center shall be notified and the Lieutenant or supervisor will make a determination as to whether one or more investigators driving Code-3 is appropriate.

307.5 RESPONSIBILITIES OF RESPONDING INVESTIGATORS

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

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The decision to continue a Code-3 response is at the discretion of the investigator. If, in the investigator's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the investigator may elect to respond to the call without the use of red lights and siren at the legal speed limit. District Attorney Investigator shall also discontinue the Code-3 response when directed by a supervisor.

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

307.6 SUPERVISORY RESPONSIBILITIES

Upon being notified that a Code-3 response has been initiated the supervisor shall verify the following:

a. The proper response has been initiated
b. No more than those units reasonably necessary under the circumstances are involved in the response
c. Affected outside jurisdictions are being notified as practical

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

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

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

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

307.7 ANNUAL POLICY REVIEW

The [DivisionOperations][DivisionMajor], or the authorized designee, shall conduct an annual review of this policy and related procedures.

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

The primary responsibility for a domestic violence investigation shall lie with the venue allied law enforcement agency. In the event the San Joaquin County District Attorney's Office Bureau of Investigation becomes involved in an investigation, the following guidelines should be adhered to.

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 San Joaquin County District Attorney's Office’s response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. 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. Incidents 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.
    1. A lethality assessment should be administered to victims of domestic violence to assess the level of danger and/or the severity of the situation and attached to the appropriate report.

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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.
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 Bureau of Investigation 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.

308.4.3 ARRESTING INVESTIGATORS' RESPONSIBILITIES REGARDING FIREARMS

If a suspect is arrested, investigators shall (Penal Code § 273.76):

a. Query the Automated Firearms System through the California Law Enforcement Telecommunications System (CLETS) for any firearms owned or possessed by the arrestee.
    1. The investigating or filing investigator shall include a copy of the Automated Firearms System report when filing the case with the district attorney or prosecuting city attorney.
b. Ask the arrestee, victim, and any other household members, if applicable, about any firearms owned or possessed by the arrestee.
c. Ensure that any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual or other lawful search is taken into temporary custody pursuant to Penal Code § 18250.
d. Document in the arrest report the detailed actions taken required by Penal Code § 273.76.

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.

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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.

District Attorney 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 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:

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a. An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.
    1. Investigators are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the investigator makes the arrest as soon as probable cause arises (Penal Code § 836).
b. District Attorney 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 domestic violence incident 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, including notations for any court order served that are subject to the report requirements (Penal Code § 13730; Code of Civil Procedure § 527.12).
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.

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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

The Bureau shall maintain records of court orders related to domestic violence and the service status of each order (Penal Code § 13710).

Additionally, records shall be maintained 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. This information is to be reported monthly to the California Department of Justice (DOJ). The Administrative Lieutenant has the responsibility to ensure that records are maintained and the required information is reported to the DOJ (Penal Code § 13730).

308.11 SERVICE OF COURT ORDERS

a. District Attorney 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. District Attorney Investigator should ensure that any firearm obtained is entered into the Automated Firearms System (Family Code § 6383)..

e. If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the investigator shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The investigator shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide the person with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

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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).

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Search and Seizure

309.1 PURPOSE AND SCOPE

Both the federal and state Constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for San Joaquin County District Attorney's Office personnel to consider when dealing with search and seizure issues.

309.2 POLICY

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

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

309.3 SEARCHES

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

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

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances
- Authorization under the terms or conditions of probation or parole supervision

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

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

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

309.4 SEARCH PROTOCOL

Although conditions will vary and officer safety and other exigencies must be considered in every search situation, the following guidelines should be followed whenever circumstances permit:

a. Members of this bureau will strive to conduct searches with dignity and courtesy.

b. Investigators should explain to the person being searched the reason for the search and how the search will be conducted.

c. Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.

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

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

    1. Another investigator or a supervisor should witness the search.

    2. The investigator should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

309.5 DOCUMENTATION

Investigators are responsible to document any search and to ensure that any required reports are sufficient including, at minimum, documentation of the following:

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

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

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Temporary Custody of Juveniles

310.1 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 San Joaquin County District Attorney's Office (34 USC § 11133).

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

310.1.1 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 investigator or other custody employee at all times and is not placed in a locked room, cell, or behind any locked doors. Juveniles in non-secure custody may be handcuffed but not to a stationary or secure object. Personal supervision, through direct visual monitoring and audio two-way communication is maintained. Monitoring through electronic devices, such as video, does not replace direct visual observation (Welfare and Institutions Code § 207.1; 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.
d. A juvenile being processed in a secure booking area when a non-secure booking area is available.

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e. A juvenile left alone in a secure booking area after being photographed and fingerprinted.
f. A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.
g. A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

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

310.2 POLICY

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

310.3 JUVENILES WHO SHOULD NOT BE HELD

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

a. Unconscious
b. Seriously injured
c. A known suicide risk or obviously severely emotionally disturbed
d. Significantly intoxicated except when approved by the Lieutenant. 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 San Joaquin County District Attorney's Office unless they have been evaluated by a qualified medical and/or mental health professional (15 CCR 1142).

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).

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310.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY

When emergency medical attention is required for a juvenile, medical assistance will be called immediately. A Bureau Lieutenant shall be notified of the need for medical attention for the juvenile. Bureau members should administer first aid as applicable (15 CCR 1142).

310.3.2 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).

310.4 CUSTODY OF JUVENILES

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

No juvenile should be held in temporary custody at the San Joaquin County District Attorney's Office without authorization of the arresting investigator's supervisor or Lieutenant. 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 San Joaquin County District Attorney's Office (34 USC § 11133; Welfare and Institutions Code § 207.1).

310.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

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

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

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

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310.4.3 CUSTODY OF JUVENILE OFFENDERS

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

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

A juvenile offender who is 14 years of age or older and taken into custody for committing or attempting to commit a felony with a firearm shall not be released and 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).

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

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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 in the Temporary Custody of Adults Policy (Welfare and Institutions Code § 627; Penal Code § 851.5).

310.6 JUVENILE CUSTODY LOGS

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

a. Identifying information about the juvenile.
b. Date and time of arrival and release from the San Joaquin County District Attorney's Office (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.

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

310.7 NO-CONTACT REQUIREMENTS

Sight and sound separation shall be maintained between all juveniles and 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.

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 San Joaquin County District Attorney's Office (trained in the supervision of persons in custody) shall maintain a constant, immediate, side-by-side presence with the juvenile or the adult to minimize any contact. If inadvertent or accidental contact does occur, reasonable efforts shall be taken to end the contact (15 CCR 1144).

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310.8 TEMPORARY CUSTODY REQUIREMENTS

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

a. A Bureau Lieutenant should be notified if it is anticipated that a juvenile may need to remain at the San Joaquin County District Attorney's Office more than four hours. This will enable the Lieutenant to ensure no juvenile is held at the San Joaquin County District Attorney's Office more than six hours.
b. A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
c. Personal safety checks and significant incidents/activities shall be noted on the log.
d. Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.
    1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.
    2. This does not apply to surreptitious and legally obtained recorded interrogations.
e. Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).
f. 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.
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).

310.9 RELIGIOUS ACCOMMODATION

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

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310.10 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 San Joaquin County District Attorney's Office when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

Other restraints shall only be used after less restrictive measures have failed and with the approval of a Lieutenant. 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).

310.11 PERSONAL PROPERTY

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

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

310.12 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 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).

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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 always be present 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).

310.12.1 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.
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.

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

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

a. Immediate notification of the on-duty supervisor, Chief Investigator, and Criminal Investigations Division Supervisor.
b. Notification of the parent, guardian, or person standing in loco parentis of the juvenile.

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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 (BSCC) within the same time frame (15 CCR 1046).
h. A medical and operational review of deaths pursuant to 15 CCR 1046.
    1. A copy of the review report shall be provided to BSCC within 60 days of the death (15 CCR 1046).
i. Evidence preservation.

310.13.1 IN-CUSTODY DEATH PUBLICATION

The Chief Investigator or the authorized designee should ensure that specified information relating to an in-custody death of a juvenile is posted on the bureau website as prescribed and within the time frames provided in Penal Code § 10008.

310.14 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.
    1. The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

310.14.1 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):

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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 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).

310.15 FORMAL BOOKING

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

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

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

a. The gravity of the offense
b. The past record of the offender
c. The age of the offender

310.16 RELEASE OF INFORMATION CONCERNING JUVENILES

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

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Welfare and Institutions Code § 828 authorizes the release of certain information to other agencies. It shall be the responsibility of the Administrative Lieutenant to ensure that personnel of those bureaus act within legal guidelines.

310.17 TRAINING

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

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Senior and Disability Victimization

311.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for San Joaquin County District Attorney's Office members as required by law (Penal Code § 368.6).

The San Joaquin County District Attorney's Office is committed to providing equal protection and demonstrating respect for all persons regardless of age or disabilities, and to conscientiously enforcing all criminal laws protecting elders, and adults and children with disabilities, regardless of whether these crimes also carry civil penalties (Penal Code § 368.6) (see Child Abuse Policy for child abuse investigations and reporting).

The primary responsibility for senior and disability investigation shall lie with the venue allied law enforcement agency. In the event the San Joaquin County District Attorney's Office Bureau of Investigation becomes involved in an investigation, the following guidelines should be adhered to.

311.1.1 DEFINITIONS

Definitions related to this policy include:

Abuse of an elder (age 65 or older) or dependent adult - Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Neglect includes self-neglect (Welfare and Institutions Code § 15610.05 et seq.; Penal Code § 368.5).

Bureau protocols (or protocols) - A procedure adopted by a local law enforcement agency consistent with the agency's organizational structure and stated in a policy adopted pursuant to this section, to effectively and accountably carry out a particular agency responsibility.

Dependent adult - An individual, regardless of whether the individual lives independently, between 18 and 64 years of age who has physical or mental limitations that restrict their ability to carry out normal activities or to protect their rights, including but not limited to persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This also includes those admitted as inpatients to a 24-hour health facility, as defined in state law (Penal Code § 368; Welfare and Institutions Code § 15610.23).

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

Senior and disability victimization - Means any of the following (Penal Code § 368.6):

a. Elder and dependent adult abuse

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b. Unlawful interference with a mandated report
c. Homicide of an elder, dependent adult, or other adult or child with a disability
d. Sex crimes against elders, dependent adults, or other adults and children with disabilities
e. Child abuse of children with disabilities
f. Violation of relevant protective orders
g. Hate crimes against persons with actual or perceived disabilities, including but not limited to disabilities caused by advanced age, or those associated with them
h. Domestic violence against elders, dependent adults, and adults and children with disabilities, including disabilities caused by advanced age

311.2 POLICY

The San Joaquin County District Attorney's Office will investigate all reported incidents of alleged elder and dependent adult abuse and ensure proper reporting and notification as required by law.

311.2.1 ARREST POLICY

It is the bureau policy to make arrests or to seek arrest warrants for elder and dependent adult abuse in accordance with Penal Code § 836 and, in the case of domestic violence, as allowed by Penal Code § 13701 (Penal Code § 368.6) (see Law Enforcement Authority and Domestic Violence policies for additional guidance).

311.2.2 ADHERENCE TO POLICY

All investigators are required to be familiar with the policy and carry out the policy at all times, except in the case of an unusual compelling circumstance as determined and approved by a supervisor (Penal Code § 368.6).

Any supervisor who determines and approves an investigator’s deviation from this policy shall provide a written report to the Chief Investigator that states the unusual compelling circumstances regarding the deviation. A copy of this report will be made available to the alleged victim and reporting party pursuant to bureau protocols (Penal Code § 368.6(c)(27)).

The Chief Investigator shall retain the report for a minimum of five years and shall make it available to the state protection and advocacy agency upon request (Penal Code § 368.6(c)(27)).

311.3 CHIEF INVESTIGTOR RESPONSIBILITIES

The Chief Investigator or the authorized designee responsibilities include but are not limited to (Penal Code § 368.6):

a. Taking leadership within the bureau and in the community, including by speaking out publicly in major cases of senior and disability victimization, to assure the community of bureau support for the victims and their families and for others in the community who are terrorized and traumatized by the crimes, and to encourage victims and witnesses to the crimes or similar past or future crimes to report those crimes to help bring the perpetrators to justice and prevent further crimes.
b. Developing and including bureau protocols in this policy, including but not limited to the following:

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1. Protocols for seeking emergency protective orders by phone from a court at any time of day or night pursuant to Family Code § 6250(d).
2. Protocols for arrest warrants and arrests for senior and disability victimization for matters other than domestic violence and consistent with the requirements of Penal Code § 368.6(c)(9)(B) that include the following:
    a. In the case of a senior and disability victimization committed in an investigator's presence, including but not limited to a violation of a relevant protective order, the investigator shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.
    b. In the case of a felony not committed in an investigator's presence, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.
    c. In the case of a misdemeanor not committed in the investigator's presence, including but not limited to misdemeanor unlawful interference with a mandated report or a misdemeanor violation of a relevant protective order, or when necessary or advisable to protect the safety of the victim or others, the agency shall seek an arrest warrant based on probable cause.
    d. Protocol for seeking arrest warrants based on probable cause for crimes for which no arrest has been made.
3. Procedures for first responding investigators to follow when interviewing persons with cognitive and communication disabilities until investigators, or staff of other responsible agencies with more advanced training, are available. The procedure shall include an instruction to avoid repeated interviews whenever possible.

c. For each bureau protocol, include either a specific title-by-title list of investigator responsibilities or a specific office or unit in the bureau responsible for implementing the protocol.
d. Ensuring an appendix is created and attached to this policy that describes requirements for elder and dependent adult abuse investigations consistent with Penal Code § 368.6(c)(8)(B).
e. Ensuring a detailed checklist is created and attached to this policy regarding first responding responsibilities that includes but is not limited to the requirements of Penal Code § 368.6(c)(23).
f. Ensuring that all members carry out their responsibilities under this policy.
g. Verifying a process is in place for transmitting and periodically retransmitting this policy and related orders to investigators, including a simple and immediate way for investigators to access the policy in the field when needed.
h. Ensuring this policy is available to the Protection and Advocacy Agency upon request.

311.4 ELDER AND DEPENDENT ADULT ABUSE LIAISON

A bureau member appointed by the Chief Investigator or the authorized designee will serve as the Elder and Dependent Adult Abuse Liaison. Responsibilities of the liaison include but are not limited to (Penal Code § 368.6):

a. Acting as a liaison to other responsible agencies (defined by Penal Code § 368.6(b) (15)) to increase cooperation and collaboration among them while retaining the law enforcement agency’s exclusive responsibility for criminal investigations (Welfare and Institutions Code § 15650).

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b. Reaching out to the senior and disability communities and to the public to encourage prevention and reporting of senior and disability victimization.

311.5 INVESTIGATIONS AND REPORTING

All reported or suspected cases of elder and dependent adult abuse require investigation and a report, even if the allegations appear unfounded or unsubstantiated (Penal Code § 368.6).

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

1. The overall basis for the contact. This should be done by the investigating investigator in all circumstances where a suspected elder and dependent adult abuse victim is contacted.
2. Any relevant statements the victim may have made and to whom he/she made the statements.
3. If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
4. Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
5. Whether the victim was transported for medical treatment or a medical examination.
6. Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.
7. Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
8. Previous addresses of the victim and suspect.
9. Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim’s environment.
10. Witness and suspect statements if available.
11. Review of all portable audio/video recorders, devices, and other available video.
12. Call history related to the elder or dependent adult including calls from mandated reporters or other individuals.
13. Whether the abuse is related to a disability-bias hate crime and related bias motivations (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).
14. Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the elder or dependent adult abuse (Welfare and Institutions Code § 15640(f)).
15. Whether a death involved the End of Life Option Act:
    1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14).
    2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person’s life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17).

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3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17).
4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

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

An unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability should be treated as a potential homicide until a complete investigation including an autopsy is completed, and it should not be assumed that the death of an elder or person with a disability is natural simply because of the age or disability of the deceased (Penal Code § 368.6(c)(18)).

311.5.1 ADDITIONAL INVESTIGATIVE CONSIDERATIONS

The following factors as provided in Penal Code § 368.6 should be considered when investigating incidents of elder and dependent adult abuse:

a. Elder and dependent adult abuse, sex crimes, child abuse, domestic violence, and any other criminal act, when committed in whole or in part because of the victim’s actual or perceived disability, including disability caused by advanced age, is also a hate crime (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).
b. Senior and disability victimization crimes are also domestic violence subject to the mandatory arrest requirements of Penal Code § 836 if they meet the elements described in Penal Code § 273.5, including but not limited to a violation by a caretaker or other person who is or was a cohabitant of the victim, regardless of whether the cohabitant is or was a relative of, or in an intimate personal relationship with, the victim (Penal Code § 368.6(c)(10)).
c. Many victims of sexual assault and other sex crimes delay disclosing the crimes for reasons including but not limited to shame, embarrassment, self-doubt, fear of being disbelieved, and fear of retaliation by the perpetrator or others (Penal Code § 368.6(c)(11)).
d. Victims and witnesses with disabilities, including cognitive and communication disabilities, can be highly credible witnesses when interviewed appropriately by trained officers or other trained persons (Penal Code § 368.6(c)(14)).

311.6 QUALIFIED INVESTIGATORS

Qualified investigators should be available to investigate cases of elder and dependent adult abuse. These investigators should:

a. Conduct interviews in appropriate interview facilities.
b. Be familiar with forensic interview techniques specific to elder and dependent adult abuse investigations.
c. Present all cases of alleged elder and dependent adult abuse to the prosecutor for review.

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d. Coordinate with other enforcement agencies, social service agencies, and facility administrators as needed (Welfare and Institutions Code § 15650).
e. Provide referrals to therapy services, victim advocates, guardians, and support for the victim and family as appropriate (see the Victim and Witness Assistance Policy for additional guidance).
    1. Ensure victims of sex crimes know their right to have a support person of their choice present at all times during an interview or contact (Penal Code § 368.6) (see the Sexual Assault Investigations Policy for additional guidance).
    2. Referrals to the crime victim liaison as appropriate for victims requiring further assistance or information regarding benefits from crime victim resources.
f. Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 15610.55).
g. Make reasonable efforts to determine whether any person committed unlawful interference in a mandated report.

311.7 MANDATORY NOTIFICATION

Members of the San Joaquin County District Attorney's Office shall notify the local office of the California Department of Social Services (CDSS) APS agency of known, suspected, or alleged instances of abuse when they reasonably suspect, have observed, or have knowledge of an incident that reasonably appears to be abuse of an elder or dependent adult, or are told by an elder or dependent adult that the person has experienced abuse (Welfare and Institutions Code § 15630(b)).

Notification shall be made by telephone or through a confidential internet reporting tool as soon as practicable. If notification is made by telephone, a written report shall be sent or internet report shall be made through the confidential internet reporting tool within two working days, as provided in Welfare and Institutions Code § 15630 (b).

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

a. If the abuse occurred in a long-term care facility (not a state mental health hospital or a state developmental center), notification shall be made as follows (Welfare and Institutions Code § 15630(b)(1)):
    1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
    2. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by a written report to the local ombudsman within 24 hours.
    3. If there is any other abuse in a long-term care facility (not a state mental health or a state developmental center), a written report shall be made to the local ombudsman and corresponding state licensing agency within 24 hours.
b. The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.

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c. The CDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.
d. If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.
e. The Division of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.
f. The District Attorney's office Family Crimes Unit shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.
g. If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services as soon as practicable but no later than two hours after law enforcement becomes aware of the abuse (Welfare and Institutions Code § 15630(b)).
    1. When a report of abuse is received by the bureau, investigation efforts shall be coordinated with the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services (Welfare and Institutions Code § 15630(b)).
h. If during an investigation it is determined that the elder or dependent adult abuse is being committed by a licensed health practitioner as identified in Welfare and Institutions Code § 15640(b), the appropriate licensing agency shall be immediately notified (Welfare and Institutions Code 15640(b)).
i. When the bureau receives a report of abuse, neglect, or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, the licensing agency shall be notified by telephone as soon as practicable (Welfare and Institutions Code § 15640(e)).

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

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

Failure to report or impeding or inhibiting a report of abuse of an elder or dependent adult is a misdemeanor (Welfare and Institutions Code §15630(h)).

311.7.1 NOTIFICATION PROCEDURE

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

a. The name of the person making the report.
b. The name and age of the elder or dependent adult.
c. The present location of the elder or dependent adult.
d. The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.
e. The nature and extent of the condition of the elder or dependent adult.

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f. The date of incident.
g. Any other information, including information that led the person to suspect elder or dependent adult abuse.

311.8 PROTECTIVE CUSTODY

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

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

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

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

311.8.1 EMERGENCY PROTECTIVE ORDERS

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

311.8.2 VERIFICATION OF PROTECTIVE ORDER

Whenever an investigator verifies that a relevant protective order has been issued, the investigator shall make reasonable efforts to determine if the order prohibits the person from possession of firearms or requires the relinquishment of firearms, and if the order does so, the investigator shall make reasonable efforts to (Penal Code § 368.6(c)(19)):

a. Inquire whether the restrained person possesses firearms. The investigator should make this effort by asking the restrained person and the protected person.
b. Query the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.

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c. Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search in compliance with Penal Code § 18250 et seq. and in accordance with bureau procedures.

311.9 INTERVIEWS

311.9.1 PRELIMINARY INTERVIEWS

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

311.9.2 DETAINING VICTIMS FOR INTERVIEWS

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

1. Exigent circumstances exist, such as:
    1. A reasonable belief that medical issues of the adult need to be addressed immediately.
    2. A reasonable belief that the adult is or will be in danger of harm if the interview or physical exam is not immediately completed.
    3. The alleged offender is a family member or guardian and there is reason to believe the adult may be in continued danger.
2. A court order or warrant has been issued.

311.9.3 INTERVIEWS WITH A PERSON WITH DEAFNESS OR HEARING LOSS

District Attorney Investigator who is interviewing a victim or witness who reports or demonstrates deafness or hearing loss should secure the services of a qualified interpreter (as defined by Evidence Code § 754) prior to the start of the interview (Penal Code § 368.6) (see the Communications with Persons with Disabilities Policy for additional guidance).

311.10 MEDICAL EXAMINATIONS

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

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

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311.11 DRUG-ENDANGERED VICTIMS

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

311.11.1 INVESTIGATOR RESPONSIBILITIES

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

a. Document the environmental, medical, social, and other conditions of the adult, using photography as appropriate and the checklist or form developed for this purpose.
b. Notify the Bureau of Investigation supervisor so an interagency response can begin.

311.11.2 SUPERVISOR RESPONSIBILITIES

The Bureau of Investigation supervisor should:

a. Work with professionals from the appropriate agencies, including APS, other law enforcement agencies, medical service providers, and local prosecutors, to develop community specific procedures for responding to situations where there are elder or dependent adult abuse victims endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
b. Activate any available interagency response when an investigator notifies the Bureau of Investigation supervisor that he/she has responded to a drug lab or other narcotics crime scene where an elder or dependent adult abuse victim is present or where evidence indicates that an elder or dependent adult abuse victim lives.
c. Develop a report format or checklist for use when investigators respond to drug labs or other narcotics crime scenes. The checklist will help investigators document the environmental, medical, social, and other conditions that may affect the adult.

311.12 [RECORDS BUREAU] RESPONSIBILITIES

The Administrative Lieutenant is responsible for:

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

311.13 JURISDICTION

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

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

Additional jurisdiction responsibilities for investigations of abuse involving various facilities and agencies may be found in Welfare and Institutions Code § 15650.

311.14 TRAINING

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

a. Participating in multidisciplinary investigations, as appropriate.
b. Conducting interviews.
c. Availability of therapy services for adults and families.
d. Availability of specialized forensic medical exams.
e. Cultural competence (including interpretive services) related to elder and dependent adult abuse investigations.
f. Availability of victim advocates or other support.

311.14.1 MANDATORY TRAINING

The Administrative Lieutenant shall ensure that appropriate personnel receive the required training, including:

a. Materials from POST as described in Penal Code § 368.6(c)(5)(A).
b. Advanced training on senior and disability victimization available from POST, the United States Department of Justice, the Disability and Abuse Project of the Spectrum Institute, or other sources as provided by Penal Code § 368.6(c)(16)(A).
    1. Training should include the following:
        a. Information on the wide prevalence of elder and dependent adult abuse, sexual assault, other sex crimes, hate crimes, domestic violence, human trafficking, and homicide against adults and children with disabilities, including disabilities caused by advanced age, and including those crimes often committed by caretakers (Penal Code § 368.6(c)(1)).
        b. Information on the history of elder and dependent adult abuse and crimes against individuals with disabilities (see the POST Senior and Disability Victimization Policy Guidelines).

The Administrative Lieutenant shall also ensure that appropriate training is provided on this policy to non-sworn bureau personnel who interact with the public (Penal Code § 368.6 (c)(7)).

311.15 RELEVANT STATUTES

Penal Code § 288 (a) and Penal Code § 288 (b)(2)

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(a) Except as provided in subdivision (i), a person who willfully and lewdly commits any lewd or lascivious act, including any of the acts constituting other crimes provided for in Part 1 (Of Crimes and Punishments of the Penal Code) upon or with the body, or any part or member thereof, of a child who is under the age of 14 years, with the intent of arousing, appealing to, or gratifying the lust, passions, or sexual desires of that person or the child, is guilty of a felony and shall be punished by imprisonment in the state prison for three, six, or eight years.

(b)(2) A person who is a caretaker and commits an act described in subdivision (a) upon a dependent person by use of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person, with the intent described in subdivision (a), is guilty of a felony and shall be punished by imprisonment in the state prison for 5, 8, or 10 years.

Penal Code § 368 (c)

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

Penal Code § 368 (f)

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

Protections provided by the above Penal Code § 288 and Penal Code § 368 protect many persons with disabilities regardless of the fact they live independently.

Welfare and Institutions Code § 15610.05

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

Welfare and Institutions Code § 15610.06

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

Welfare and Institutions Code § 15610.30

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a. "Financial abuse" of an elder or dependent adult occurs when a person or entity does any of the following:
    1. Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
    2. Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
    3. Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.
b. A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes, appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.
c. For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.
d. For purposes of this section, "representative" means a person or entity that is either of the following:
    1. A conservator, trustee, or other representative of the estate of an elder or dependent adult.
    2. An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

Welfare and Institutions Code § 15610.43

a. "Isolation" means any of the following:
    1. Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.
    2. Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.
    3. False imprisonment, as defined in Section 236 of the Penal Code.
    4. Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.
b. The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice. medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.
c. The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safe.

Welfare and Institutions Code § 15610.57

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a. "Neglect" means either of the following:
    1. The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.
    2. The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.
b. Neglect includes, but is not limited to, all of the following:
    1. Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.
    2. Failure to provide medical care for physical and mental health needs. A person shall not be deemed neglected or abused for the sole reason that the person voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.
    3. Failure to protect from health and safety hazards.
    4. Failure to prevent malnutrition or dehydration.
    5. Substantial inability or failure of an elder or dependent adult to manage personal finances.
    6. Failure of an elder or dependent adult to satisfy any of the needs specified in paragraphs (1) to (5), inclusive, for themselves as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.
c. Neglect includes being homeless if the elder or dependent adult is also unable to meet any of the needs specified in paragraphs (1) to (5), inclusive, of subdivision (b).

Welfare and Institutions Code § 15610.63

"Physical abuse" means any of the following:

a. Assault, as defined in Section 240 of the Penal Code.
b. Battery, as defined in Section 242 of the Penal Code.
c. Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.
d. Unreasonable physical constraint, or prolonged or continual deprivation of food or water.
e. Sexual assault, that means any of the following:
    1. Sexual battery, as defined in Section 243.4 of the Penal Code.
    2. Rape, as defined in Section 261 of the Penal Code, or former Section 262 of the Penal Code.
    3. Rape in concert, as described in Section 264.1 of the Penal Code.
    4. Incest, as defined in Section 285 of the Penal Code.
    5. Sodomy, as defined in Section 286 of the Penal Code.
    6. Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.
    7. Sexual penetration, as defined in Section 289 of the Penal Code.
    8. Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.
f. Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:
    1. For punishment.

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2. For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
3. For any purpose not authorized by the physician and surgeon.

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Discriminatory Harassment

312.1 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.

312.2 POLICY

The San Joaquin County District Attorney's Office is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment and retaliation (Government Code § 12940(k); 2 CCR 11023). The bureau will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The bureau will take preventive and corrective action to address any behavior that violates this policy or the rights it is designed to protect.

The nondiscrimination policies of the bureau may be more comprehensive than state or federal law. Conduct that violates this policy may not violate state or federal law but still could subject a member to discipline.

312.3 DEFINITIONS

Definitions related to this policy include:

312.3.1 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.

312.3.2 RETALIATION

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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.

312.3.3 SEXUAL HARASSMENT

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

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

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

312.3.4 ADDITIONAL CONSIDERATIONS

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

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

312.4 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 Manager, or the Elected District Attorney.

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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 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.

312.4.1 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief Investigator, the Personnel Manager, the Elected District Attorney, or the California Civil Rights Department for further information, direction, or clarification (Government Code § 12950).

312.4.2 SUPERVISOR RESPONSIBILITIES

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

a. Continually monitoring the work environment and striving to ensure that it is free from all types of unlawful discrimination, including harassment or retaliation.
b. Taking prompt, appropriate action within their work units to avoid and minimize the incidence of any form of discrimination, harassment, or retaliation.
c. Ensuring that their subordinates understand their responsibilities under this policy.
d. Ensuring that members who make complaints or who oppose any unlawful employment practices are protected from retaliation and that such matters are kept confidential to the extent possible.
e. Making a timely determination regarding the substance of any allegation based upon all available facts.
f. Notifying the Chief Investigator or the Personnel Manager in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

312.4.3 SUPERVISOR’S ROLE

Supervisors and managers shall be aware of the following:

a. Behavior of supervisors and managers should represent the values of the 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.

312.5 INVESTIGATION OF COMPLAINTS

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

312.5.1 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.

312.5.2 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 Manager, or the Elected District Attorney.

312.5.3 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.

312.6 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:

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a. Approved by the Chief Investigator, the Elected District Attorney, or the Personnel Manager, depending on the ranks of the involved parties.
b. Maintained in accordance with the bureau's established records retention schedule.

312.6.1 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.

312.7 WORKING CONDITIONS

The Administration 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).

312.8 TRAINING

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

312.8.1 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).

312.8.2 TRAINING RECORDS

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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).

312.9 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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Child Abuse

313.1 PURPOSE AND SCOPE

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

The primary responsibility for child abuse investigation shall lie with the venue allied law enforcement agency. In the event the San Joaquin County District Attorney's Office Bureau of Investigation becomes involved in an investigation, the following guidelines should be adhered to.

313.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

313.2 POLICY

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

313.3 MANDATORY NOTIFICATION

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

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

The District Attorney's office Family Crimes Unit shall be notified in all instances of known or suspected child abuse or neglect reported to this bureau. Notification of the District Attorney is not required for reports only involving neglect by a person, who has the care or custody of a child, to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred (Penal Code § 11166).

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

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

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

313.3.1 NOTIFICATION PROCEDURE

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

a. Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.

b. A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

313.4 QUALIFIED INVESTIGATORS

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

a. Conduct interviews in child appropriate interview facilities.

b. Be familiar with forensic interview techniques specific to child abuse investigations.

c. Present all cases of alleged child abuse to the prosecutor for review.

d. Coordinate with other enforcement agencies, social service agencies and school administrators as needed.

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

f. Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

313.5 INVESTIGATIONS AND REPORTING

In all reported or suspected cases of child abuse, a report will be written. Investigators shall write a report even if the allegations appear unfounded or unsubstantiated.

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

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a. The overall basis for the contact. This should be done by the investigating investigator in all circumstances where a suspected child abuse victim was contacted.

b. The exigent circumstances that existed if investigators interviewed the child victim without the presence of a parent or guardian.

c. Any relevant statements the child may have made and to whom he/she made the statements.

d. If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

e. Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.

f. Whether the child victim was transported for medical treatment or a medical examination.

g. Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.

h. Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.

i. Previous addresses of the victim and suspect.

j. Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim’s environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

313.5.1 EXTRA JURISDICTIONAL REPORTS

If a report of known or suspected child abuse or neglect is received, bureau members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately referred by telephone, fax, or electronic transfer to the agency with proper jurisdiction (Penal Code § 11165.9).

313.5.2 INITIAL REPORTS OF ABUSE FROM A NONMANDATED REPORTER

Members who receive a report of child abuse or neglect shall request the following information from the reporter (Penal Code § 11167):

a. Name and telephone number

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b. Information and the source of information that gives rise to the knowledge or reasonable suspicion of child abuse or neglect

If the reporter refuses to provide their name and telephone number, the member should make a reasonable effort to determine the basis for the refusal and inform them that their information will remain confidential.

313.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the investigator should make reasonable attempts to contact CPS. Generally, removal of a child from the child's family, guardian, or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this bureau should remove a child from the child's parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the investigator should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the investigator shall ensure that the child is delivered to CPS.

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

Children may only be removed from a parent or guardian in the following situations when a court order cannot reasonably be obtained in a timely manner (Welfare and Institutions Code § 305):

a. The investigator reasonably believes the child is a person described in Welfare and Institutions Code § 300, and further has good cause to believe that any of the following conditions exist:
    1. The child has an immediate need for medical care.
    2. The child is in immediate danger of physical or sexual abuse.
    3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the investigator shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.
b. The investigator reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:
    1. It reasonably appears to the investigator that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
    2. There is no lawful custodian available to take custody of the child.
    3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
    4. The child is an abducted child.

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c. The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

A child taken into protective custody shall be delivered to CPS unless otherwise directed by court order.

313.6.1 CALIFORNIA SAFELY SURRENDERED BABY LAW

An individual having lawful custody of an infant less than 72 hours old is not guilty of abandonment if the individual voluntarily surrenders physical custody of the infant to personnel on-duty at a safe-surrender site, such as a hospital or fire department (Penal Code § 271.5). The law requires the surrender site to notify CPS.

313.6.2 NEWBORNS TESTING POSITIVE FOR DRUGS

Under certain circumstances, investigators can be prohibited from taking a newborn who is the subject of a proposed adoption into protective custody, even when the newborn has tested positive for illegal drugs or the birth mother tested positive for illegal drugs.

Investigators shall instead follow the provisions of Welfare and Institutions Code § 305.6 to ensure that the newborn is placed with the adoptive parents when it is appropriate.

313.7 INTERVIEWS

313.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, investigators should record the preliminary interview with suspected child abuse victims. Investigators should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating investigators should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

313.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

District Attorney Investigator should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

a. Exigent circumstances exist, such as:

    1. A reasonable belief that medical issues of the child need to be addressed immediately.

    2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.

    3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

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b. A court order or warrant has been issued.

313.7.3 INTERVIEWS AT A SCHOOL

Any student at school who is a suspected victim of child abuse shall be afforded the option of being interviewed in private or selecting any qualified available adult member of the school staff to be present. The purpose of the staff member's presence is to provide comfort and support. The staff member shall not participate in the interview. The selection of a staff member should be such that it does not burden the school with costs or hardship (Penal Code § 11174.3).

313.8 MEDICAL EXAMINATIONS

If the child has been the victim of abuse that requires a medical examination, the investigating investigator should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The investigator should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, investigators should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for investigators to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

313.9 DRUG-ENDANGERED CHILDREN

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

313.9.1 SUPERVISOR RESPONSIBILITIES

The Bureau of Investigation supervisor should:

a. Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.

b. Activate any available interagency response when an investigator notifies the Bureau of Investigation supervisor that the investigator has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives there.

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

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313.9.2 INVESTIGATOR RESPONSIBILITIES

Investigators responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

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

b. Notify the Bureau of Investigation supervisor so an interagency response can begin.

313.10 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

313.10.1 RELEASE OF REPORTS

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

313.10.2 REQUESTS FOR REMOVAL FROM THE CHILD ABUSE CENTRAL INDEX (CACI)

Any person whose name has been forwarded to the California Department of Justice (DOJ) for placement in California’s CACI, as a result of an investigation, may request that his/her name be removed from the CACI list. Requests shall not qualify for consideration if there is an active case, ongoing investigation or pending prosecution that precipitated the entry to CACI (Penal Code § 11169). All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer.

313.10.3 CACI HEARING OFFICER

The Bureau of Investigation supervisor will normally serve as the hearing officer but must not be actively connected with the case that resulted in the person’s name being submitted to CACI. Upon receiving a qualified request for removal, the hearing officer shall promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

313.10.4 CACI HEARING PROCEDURES

The hearing is an informal process where the person requesting removal from the CACI list will be permitted to present relevant evidence (e.g., certified copy of an acquittal, factual finding of innocence) as to why his/her name should be removed. The person requesting the hearing may record the hearing at his/her own expense.

Formal rules of evidence will not apply and the hearing officer may consider, in addition to evidence submitted by the person requesting the hearing, any relevant information including, but not limited to, the following:

a. Case reports including any supplemental reports

b. Statements by investigators

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c. Statements from representatives of the District Attorney’s Office

d. Statements by representatives of a child protective agency who may be familiar with the case

After considering all information presented, the hearing officer shall make a determination as to whether the requesting party’s name should be removed from the CACI list. Such determination shall be based on a finding that the allegations in the investigation are not substantiated (Penal Code § 11169).

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the person’s name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

The findings of the hearing officer shall be considered final and binding.

313.10.5 CHILD DEATH REVIEW TEAM

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

313.11 TRAINING

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

a. Participating in multidisciplinary investigations, as appropriate.
b. Conducting forensic interviews.
c. Availability of therapy services for children and families.
d. Availability of specialized forensic medical exams.
e. Cultural competence (including interpretive services) related to child abuse investigations.
f. Availability of victim advocate or guardian ad litem support.

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Missing Persons

314.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

The primary responsibility for a missing person investigation shall lie with the venue allied law enforcement agency. In the event the San Joaquin County District Attorney's Office Bureau of Investigations is requested for assistance, the following guidelines should be adhered to.

314.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

314.2 POLICY

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

314.3 ACCEPTANCE OF REPORTS

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Any member encountering a person who wishes to report a missing person or runaway shall render assistance without delay (Penal Code § 14211). This can be accomplished by accepting the report via telephone or in-person and initiating the investigation. Those members who do not take such reports or who are unable to render immediate assistance shall promptly alert a member who can take the report.

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

After taking the report, the member shall immediately advise the venue allied law enforcement agency and request their response to continue the investigation. The reporting party shall also be provided the name and phone number of the police or sheriff's department having jurisdiction over the residence of the missing person and the place where the missing person was last seen.

314.4 INITIAL INVESTIGATION

Investigators accepting missing persons reports should obtain as much information about the missing person as possible from the reporting party including but not limited to a recent photograph of the missing person, the missing person's cellular telephone number and information about the missing persons social media accounts. Members shall immediately notify the venue allied agency having jurisdiction to investigate the missing person and immediately notify that agency of the missing persons report. It will be the responsibility of the venue agency to ensure the missing person's information is added to the missing persons data base. The San Joaquin County District Attorney's Office Bureau of Investigation does not have access to input missing persons into the missing person's data base. In all missing persons cases a bureau supervisor shall be notified.

314.5 REPORT PROCEDURES AND ROUTING

In all cases, investigators accepting missing person reports shall write a report outlining the information they received and the steps they took to report the missing person to the jurisdiction having authority to investigate the missing person report. The investigator shall make available a copy of his/her report for the investigating agency.

314.6 WHEN A MISSING PERSON IS FOUND

When any person reported missing is found, the investigator shall notify the venue agency to respond to complete the missing persons investigation..

In all cases, investigators shall complete a report documenting the circumstances surrounding the discovery of the missing person, the notification to the reporting agency and steps they took to care for the wellbeing of the missing person. Investigators shall make available a copy of their report to the investigating agency

The venue agency shall ensure that all appropriate notifications have been completed upon receipt of information that a missing person has been located (Penal Code § 14213).

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Victim and Witness Assistance

315.1 PURPOSE AND SCOPE

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

315.2 POLICY

The San Joaquin County District Attorney's Office is committed to providing guidance and assistance to the victims and witnesses of crime. The members of the San Joaquin County District Attorney's Office will show compassion and understanding for victims and witnesses and will make reasonable efforts to provide the support and information identified in this policy.

315.3 CRIME VICTIM ADVOCATE LIAISON

The San Joaquin County District Attorney's Office Victim Witness Services Unit serves as crime victim advocates (2 CCR 649.36). The Victim Witness Services Unit will be the point of contact for individuals requiring further assistance or information from the San Joaquin County District Attorney's Office regarding benefits from crime victim resources. The Victim Witness Services unit shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

315.4 CRIME VICTIMS

Investigators should provide all victims with the applicable victim information handouts.

Investigators should never guarantee a victim’s safety from future harm but may make practical safety suggestions to victims who express fear of future harm or retaliation. Investigators should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct him/her to the proper written bureau material or available victim resources.

315.4.1 VICTIMS OF HUMAN TRAFFICKING

Investigators investigating or receiving a report involving a victim of human trafficking shall inform the victim, or the victim’s parent or guardian if the victim is a minor, that upon the request of the victim the names and images of the victim and his/her immediate family members may be withheld from becoming a matter of public record until the conclusion of the investigation or prosecution (Penal Code § 293).

315.5 VICTIM INFORMATION

The Administration Supervisor shall ensure that victim information handouts are available and current. These should include as appropriate:

a. Shelters and other community resources for victims of domestic violence.

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b. Community resources for victims of sexual assault.
c. Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Penal Code § 13823.95(a)).
d. An explanation that victims of sexual assault who seek a standardized medical evidentiary examination shall not be required to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time (Penal Code § 13823.95(b)).
e. An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
f. A clear explanation of relevant court orders and how they can be obtained.
g. Information regarding available compensation for qualifying victims of crime (Government Code § 13962).
h. VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender’s custody status and to register for automatic notification when a person is released from jail.
i. Notice regarding U visa and T visa application processes.
j. Resources available for victims of identity theft.
k. A place for the investigator’s name, badge number, and any applicable case or incident number.
l. The "Victims of Domestic Violence" card containing the names, phone numbers, or local county hotlines of local shelters for battered women and rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2).
m. The rights of sexual assault victims card with the required information as provided in Penal Code § 680.2.
n. Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.04; Penal Code § 679.05; Penal Code § 679.026).

315.6 WITNESSES

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

Investigators should investigate allegations of witness intimidation and take enforcement action when lawful and reasonable.

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Hate Crimes

316.1 PURPOSE AND SCOPE

This policy is designed to assist in identifying and handling crimes motivated by hate or other bias toward individuals and groups with legally defined protected characteristics, to define appropriate steps for assisting victims, and to provide a guide to conducting related investigations. It outlines the general policy framework for prevention, response, accessing assistance, victim assistance and follow-up, and reporting as related to law enforcement's role in handling hate crimes. It also serves as a declaration that hate crimes are taken seriously and demonstrates how the San Joaquin County District Attorney's Office may best use its resources to investigate and solve an offense, in addition to building community trust and increasing police legitimacy (Penal Code § 13519.6; Penal Code § 422.87).

316.1.1 DEFINITION AND LAWS

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

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

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

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

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

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persons with perceived disabilities different from those of the victim. Such circumstances could be evidence that the perpetrator's motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

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

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

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

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

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

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

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

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

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

316.2 POLICY

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

The primary responsibility for a hate crime investigation shall lie with the venue allied law enforcement agency. In the event the San Joaquin County District Attorney's Office Bureau of Investigation becomes involved in a hate crime investigation, the following guidelines should be adhered to.

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.

316.3 PLANNING AND PREVENTION

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

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

316.3.1 HATE CRIMES COORDINATOR

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A bureau member may be appointed by the Chief Investigator or the authorized designee to serve as the Hate Crimes Coordinator. In instances where a Hate Crime Coordinator is appointed, the Hate Crime Coordinator should seek the assistance of an allied agency Hate Crime Coordinator. The responsibilities of the Hate Crimes Coordinator should include but not be limited to (Penal Code § 422.87):

a. Meeting with residents in target communities to allay fears; emphasizing the bureau's concern over hate crimes and related incidents; reducing the potential for counter-violence; and providing safety, security, and crime-prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.
b. Finding, evaluating, and monitoring public social media sources to identify possible suspects in reported hate crimes; to identify suspects or suspect groups in future hate crimes or hate incidents affecting individuals, groups, or communities that may be victimized; and to predict future hate-based events.
c. Providing direct and referral assistance to the victim and the victim's family.
d. Conducting public meetings on hate crime threats and violence in general.
e. Establishing relationships with formal community-based organizations and leaders.
f. Expanding, where appropriate, preventive programs such as hate, bias, and crime-reduction seminars for students.
g. Reviewing the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab, Middle Eastern, Islamic, lesbian, gay, bisexual, transgender, and queer or questioning (LGBTQ), Black, Native American, immigrant, Jewish, Asian American, and Pacific Islander communities (Penal Code § 13519.6(b)(8)).
h. Providing orientation of and with communities of specific targeted victims such as immigrant, Muslim, Arab, LGBTQ, Black or African-American, Jewish, and Sikh persons and persons with disabilities.
i. 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.
j. Verifying a process is in place to provide this policy and related orders to investigators in the field and taking reasonable steps to rectify the situation if such a process is not in place.
k. Taking reasonable steps to ensure hate crime data is provided to the Records Section for mandated reporting to the California Department of Justice.
    1. Ensure the California Department of Justice crime data is posted monthly on the bureau website (Penal Code § 13023).
l. Reporting any suspected multi-mission extremist crimes to the bureau Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Records Section Policy.
m. Maintaining the bureau's supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).
n. Submitting required hate crime materials to the California Department of Justice in accordance with the timeline established by state law (Penal Code § 13023).
o. Annually assessing this policy, including:

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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.
2. Analysis of the bureau's data collection as well as the available outside data (e.g., annual California Attorney General's report on hate crime) in preparation for and response to future hate crimes.

316.3.2 RELEASE OF INFORMATION

In partnership with allied agencies, establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure often assists greatly in any disclosure.

The benefit of public disclosure of hate crime incidents includes:

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

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

The bureau should consider the following when releasing information to the public regarding hate crimes and hate incidents that have been reported within the jurisdiction:

- Inform community organizations in a timely manner when a community group has been the target of a hate crime.
- Inform the community of the impact of these crimes on the victim, the victim's family, and the community, and of the assistance and compensation available to victims.
- Inform the community regarding hate crime law and the legal rights of, and remedies available to, victims of hate crimes.
- Provide the community with ongoing information regarding hate crimes and/or hate incidents.

316.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

316.4.1 INITIAL RESPONSE

Should a bureau investigator be the first to respond to a hate crime and/or incident, the investigator should as soon as practical notify the venue allied agency to respond to complete the investigation. In the event the venue agency is unable to respond, the investigator should evaluate the need for additional assistance and resources if applicable.

At the scene of a suspected hate or bias crime, investigators should take preliminary actions reasonably deemed necessary, including but not limited to the following:

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a. Use agency checklist (per Penal Code § 422.87) to assist in the investigation of any hate crime (see Appendix).
b. Stabilize the victims and request medical attention when necessary.
c. Properly protect the safety of victims, witnesses, and perpetrators.
    1. Assist victims in seeking a Temporary Restraining Order (if applicable).
d. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
e. Properly protect, preserve, and process the crime scene, and remove all physical evidence of the incident as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to facilitate removal or covering as soon as reasonably possible. Bureau personnel should follow up with the property owner to determine if this was accomplished in a timely manner.
f. Collect and photograph physical evidence or indicators of hate crimes such as:
    1. Hate literature.
    2. Spray paint cans.
    3. Threatening letters.
    4. Symbols used by hate groups.
g. Identify criminal evidence on the victim.
h. Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.
i. Conduct a preliminary investigation and record pertinent information including but not limited to:
    1. Identity of suspected perpetrators.
    2. Identity of witnesses, including those no longer at the scene.
    3. The offer of victim confidentiality per Government Code § 7923.615.
    4. Prior occurrences in this area or with this victim.
    5. Statements made by suspects; exact wording is critical.
    6. The victim's protected characteristics and determine if bias was a motivation "in whole or in part" in the commission of the crime.
j. Adhere to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.
k. Provide information regarding immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).
l. Provide the bureau's Hate Crimes Brochure (per Penal Code § 422.92) if asked, if necessary, or per policy.
m. Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).
n. Document any suspected multi-mission extremist crimes.

316.4.2 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:

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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.
    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 local, 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.

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316.4.3 SUPERVISION

The supervisor shall confer with the initial responding investigator and take reasonable steps to ensure that necessary preliminary actions have been taken. The supervisor shall request any appropriate personnel necessary to accomplish the following:

a. Provide immediate assistance to the crime victim by:
    1. Expressing the bureau's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
    2. Expressing the bureau's interest in protecting victims' anonymity (confidentiality forms, Government Code § 7923.615) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.
    3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy, or a bureau chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).
b. Take reasonable steps to ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.
c. Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
d. In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an investigator to specific locations that could become targets).
e. Verify hate crimes are being properly reported, including reporting to the Department of Justice, pursuant to Penal Code § 13023.
f. Verify adherence to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).
g. Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority.
h. Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For additional information refer to the California Department of Justice website.
i. Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.
j. Make a final determination as to whether the incident should be classified as a hate crime and forward to the Chief Investigator for approval.

316.5 TRAINING

All members of this bureau will receive POST-approved training on hate crime recognition and investigation (Penal Code § 13519.6).

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

316.6 APPENDIX

See attachments:

Hate Crime Checklist.pdf

Statutes and Legal Requirements.pdf

Supplemental Hate Crime Report-Agency.pdf

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Standards of Conduct

317.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the San Joaquin County District Attorney's Office and are expected of all bureau members. The standards contained in this policy are not intended to be an exhaustive list of requirements and prohibitions but they do identify many of the important matters concerning conduct. In addition to the provisions of this policy, members are subject to all other provisions contained in this manual, as well as any additional guidance on conduct that may be disseminated by this bureau or a member’s supervisors.

317.2 POLICY

The continued employment or appointment of every member of the San Joaquin County District Attorney's Office shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure to meet the guidelines set forth in this policy, whether on- or off-duty, may be cause for disciplinary action.

317.3 DIRECTIVES AND ORDERS

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

317.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or bureau policy. Supervisors should not issue orders that conflict with any previous order without making reasonable clarification that the new order is intended to countermand the earlier order.

No member is required to obey any order that appears to be in direct conflict with any federal law, state law or local ordinance. Following a known unlawful order is not a defense and does not relieve the member from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected member shall ask the issuing supervisor to clarify the order or shall confer with a higher authority. The responsibility for refusal to obey rests with the member, who shall subsequently be required to justify the refusal.

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

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

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317.3.2 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.

317.4 GENERAL STANDARDS

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

Members shall 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.

317.5 CAUSES FOR DISCIPLINE

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

317.5.1 LAWS, RULES AND ORDERS

a. Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, 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.

317.5.2 ETHICS

a. Using or disclosing one’s status as a member of the San Joaquin County District Attorney's Office in any way that could reasonably be perceived as an attempt to gain influence or authority for nonbureau business or activity.
b. The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.

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c. The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
d. Acceptance of fees, gifts or money contrary to the rules of this bureau and/or laws of the state.
e. Offer or acceptance of a bribe or gratuity.
f. Misappropriation or misuse of public funds, property, personnel or services.
g. Any other failure to abide by the standards of ethical conduct.

317.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

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

317.5.4 RELATIONSHIPS

a. Unwelcome solicitation of a personal or sexual relationship while 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).

317.5.5 ATTENDANCE

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

317.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

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1. 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).
2. Disclosing to any unauthorized person any active investigation information.
3. 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.
4. 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.
5. 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.

317.5.7 EFFICIENCY

a. Neglect of duty.
b. Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.
c. Concealing, attempting to conceal, removing, or destroying defective or incompetent work.
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 Department of Human Resources of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

317.5.8 PERFORMANCE

1. Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
2. 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.
3. 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.
4. 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.
5. 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.
6. Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:

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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.

7. 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.
8. Engaging in political activities during assigned working hours except as expressly authorized by County policy, the memorandum of understanding, or the Chief Investigator.
9. Any act on or offduty that brings discredit to this bureau.

317.5.9 CONDUCT

a. Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
b. Unreasonable and unwarranted force to a person encountered or a person under arrest.
c. Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
d. Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
e. Engaging in horseplay that reasonably could result in injury or property damage.
f. Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this bureau 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 this bureau, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this bureau or its members.

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317.5.10 SAFETY

a. Failure to observe or violating bureau safety standards or safe working practices.
b. Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).
c. Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
d. Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.
e. Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member’s appointing authority.
f. Unsafe or improper driving habits or actions in the course of employment or appointment.
g. Any personal action contributing to a preventable traffic collision.
h. Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

317.5.11 INTOXICANTS

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

318.1 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.

318.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

318.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office 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.

318.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published, shared, transmitted, or maintained through file-sharing software or any internet site that is accessed, transmitted, received, or reviewed on any 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

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username or password will not create an expectation of privacy if it is accessed through bureau computers, electronic devices, or networks.

318.4 RESTRICTED USE

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

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.

318.4.1 SOFTWARE

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

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

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.

318.4.2 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.

318.4.3 INTERNET USE

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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 from the internet shall be limited to messages, mail, and data files.

318.4.4 OFF-DUTY USE

Members should only use technology resources provided by the [departmentoffice] while conducting official Bureau business. This includes the use of telephones, cell phones, texting, email or any other "off the clock" work-related activities. This also applies to personally owned devices that are used to access [departmentoffice] resources.

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

318.5 PROTECTION OF 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. Passwords for accounts that access CJI are governed by the CJIS Access, Maintenance, and Security Policy.

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

318.6 INSPECTION OR REVIEW

A 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 their 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 [departmentoffice] involving one of its members or a member’s duties, an alleged or suspected violation of any [departmentoffice] policy, a request for disclosure of data, or a need to perform or provide a service.

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

318.7 POLICY REVIEW

The Chief Investigator, in collaboration with the IT staff, should review this policy annually and when there are major bureau technology changes, and make any appropriate updates to this policy to maintain the security of bureau computer systems.

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Report Preparation

319.1 PURPOSE AND SCOPE

Report preparation is a major part of each investigator's job. The purpose of reports are 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.

319.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission.

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.

319.2 REQUIRED REPORTING

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

319.2.1 CRIMINAL ACTIVITY

In most cases the allied venue agency will be responsible for the initial reporting of criminal activity. In the event a member must document criminal activity, the following activity is to be documented in a written report:

1. All arrests
2. All felony crimes
3. Non-Felony incidents involving threats or stalking behavior
4. 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
5. 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).

319.2.2 NON-CRIMINAL ACTIVITY

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

a. Anytime an investigator points a firearm at any person
b. Any use of force against any person by a member of this bureau (see the Use of Force Policy)
c. Any firearm discharge (see the Firearms Policy)
d. Anytime a person is reported missing (see the Missing Persons Policy)
e. Any found property or found evidence
f. Any traffic collisions above the minimum reporting level (see Traffic Collision Reporting Policy)
g. Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
h. All protective custody detentions
i. Suspicious incidents that may place the public or others at risk
j. Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

319.2.3 INJURY OR DAMAGE BY COUNTY PERSONNEL

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

319.2.4 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES

A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Records Section shall notify the California Department of Public Health (CDPH) of the incident as required by CDPH (Penal Code § 23685).

319.3 REPORT CORRECTIONS

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

319.4 REPORT CHANGES OR ALTERATIONS

Reports that have been approved by a supervisor and uploaded into the records management system shall not be modified or altered except by way of a supplemental report. Reviewed reports that have not yet been submitted to the records management system may be corrected or modified by the authoring investigator only with the knowledge and authorization of the reviewing supervisor.

319.5 USE OF ARTIFICIAL INTELLIGENCE IN PREPARATION OF REPORTS

Official reports that are generated using artificial intelligence (AI) either fully or partially shall contain the following (Penal Code § 13663)

a. On each page of an official report, or within the body of the text, identify every specific AI program used in a manner that makes such identification readily apparent to the reader and prominently state the following: "This report was written either fully or in part using artificial intelligence."

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b. The signature of the member who is preparing the official report, either in physical or electronic form, verifying that they reviewed the contents of the report and that the facts contained in the official report are true and correct. Except for the official report, a draft of any report created with the use of AI shall not constitute a member's statement.

For purposes of this section artificial intelligence means an engineered or machine-based system that varies in its level of autonomy and that can, for explicit or implicit objectives, infer from the input it receives how to generate outputs that can influence physical or virtual environments. AI as used in this section applies to AI systems that automatically draft police report narratives based upon an analysis of in-car or dash-mounted cameras, or body-worn camera audio or video, and AI systems that analyze a law enforcement officer's dictated report to generate a police report narrative automatically enhanced by generative AI (Penal Code § 13663).

See the Generative Artificial Intelligence Use policy for additional guidance on generative AI.

319.5.1 ARTIFICIAL INTELLIGENCE AUDIT TRAIL

The bureau shall maintain an audit trail for AI generated first drafts or official reports for as long as the official report is retained that, at a minimum, identifies both of the following (Penal Code § 13663):

a. The name of the person who used AI to create the report.
b. The video and audio footage that is used to create a report, if any.

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Subpoenas and Court Appearances

320.1 PURPOSE AND SCOPE

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

320.2 POLICY

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

320.3 SUBPOENAS

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

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

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

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

If, after initially accepting service of a criminal subpoena, a supervisor or other authorized individual determines that he/she is unable to deliver a copy of the subpoena to the named investigator within sufficient time for the named investigator to comply with the subpoena, the supervisor 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)).

320.3.1 SPECIAL NOTIFICATION REQUIREMENTS

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

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

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

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

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

320.3.2 CIVIL SUBPOENA

The bureau will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current memorandum of understanding or collective bargaining agreement.

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

320.3.3 OFF-DUTY RELATED SUBPOENAS

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

320.4 FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

320.5 COURTROOM PROTOCOL

When appearing in court, members shall:

a. Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
b. Dress in appropriate court room attire.
c. Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

320.5.1 TESTIMONY

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

320.6 OVERTIME APPEARANCES

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current memorandum of understanding or collective bargaining agreement.

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Outside Agency Assistance

321.1 PURPOSE AND SCOPE

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

321.2 POLICY

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

321.3 ASSISTING OUTSIDE AGENCIES

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

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

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

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

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

321.3.1 INITIATED ACTIVITY

Any on-duty investigator who engages in law enforcement activities of any type that are not part of a mutual aid request shall notify his/her supervisor or the Lieutenant and the Communications Center as soon as practicable. This requirement does not apply to special enforcement details or multi-agency task force units.

321.4 REQUESTING OUTSIDE ASSISTANCE

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

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

321.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities should be documented in corresponding reports or as directed by their supervisor.

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Major Incident Notification

322.1 PURPOSE AND SCOPE

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

322.2 POLICY

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

322.3 MINIMUM CRITERIA FOR NOTIFICATION

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

- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent San Joaquin official
- Arrest of a bureau employee or prominent San Joaquin official

322.4 MANAGEMENT NOTIFICATION

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

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Private Persons Arrests

323.1 PURPOSE AND SCOPE

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

323.2 POLICY

The primary responsibility investigators have when encountering a private persons arrest is to preserve the safety of persons and to notify the venue allied law enforcement agency.The policy of the Bureau in the event they become aware of a private persons arrest is to contact the venue allied law enforcement agency and to refer any investigative response. Should circumstances require the Bureau to provide law enforcement services for any private persons arrest, it should be completed according to the guidelines below.

323.3 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Penal Code § 836(b) expressly mandates that all investigators shall advise victims of domestic violence of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all other situations, investigators should use sound discretion in determining whether or not to advise an individual of the arrest process.

a. When advising any individual regarding the right to make a private person's arrest, investigators should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.

b. Private individuals should be discouraged from using force to effect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

323.4 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

a. For a public offense committed or attempted in his or her presence;

b. When the person arrested has committed a felony, although not in his or her presence;

c. When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

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323.5 INVESTIGATOR RESPONSIBILITIES

Any investigator presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

a. Should any investigator determine that there is no reasonable cause to believe that a private person's arrest is lawful, the investigator should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.

    1. Any investigator who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b)(1). The investigator must include the basis of such a determination in a related report.

    2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the investigator, the investigator should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.

b. Whenever an investigator determines that there is reasonable cause to believe that a private person's arrest is lawful, the investigator may exercise any of the following options:

    1. Take the individual into physical custody for booking

    2. Release the individual pursuant to a Notice to Appear

    3. Release the individual pursuant to Penal Code § 849

323.6 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a bureau Private Person's Arrest form under penalty of perjury.

In addition to the Private Person's Arrest Form (and any other related documents such as citations, booking forms, etc.), investigators shall complete a narrative report regarding the circumstances and disposition of the incident.

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Limited English Proficiency Services

324.1 PURPOSE AND SCOPE

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

324.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

324.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

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

324.3 FOUR-FACTOR ANALYSIS

Since there are many different languages that members could encounter, the bureau will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients,

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available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of four factors, which are:

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

324.4 TYPES OF LEP ASSISTANCE AVAILABLE

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

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

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

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

324.5 WRITTEN FORMS AND GUIDELINES

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

324.6 AUDIO RECORDINGS

The bureau may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals who are representative of the community being served.

324.7 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established bureau procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members utilized for LEP services must demonstrate knowledge of the functions of an interpreter /translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence or conveying rights or responsibilities.

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

324.8 AUTHORIZED INTERPRETERS

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

324.8.1 SOURCES OF AUTHORIZED INTERPRETERS

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

Other sources may include:

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

324.8.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above).

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

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

324.9 CONTACT AND REPORTING

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

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

324.10 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

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

324.11 FIELD ENFORCEMENT

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

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the investigator is unable to effectively communicate with an LEP individual.

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

324.12 INVESTIGATIVE FIELD INTERVIEWS

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

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

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

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

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

324.13 CUSTODIAL INTERROGATIONS

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

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

324.14 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

324.15 COMPLAINTS

The bureau shall ensure that LEP individuals who wish to file a complaint regarding members of this bureau are able to do so. The bureau may provide an authorized interpreter or translated forms, as appropriate.

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

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

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Mandatory Employer Notification

325.1 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.

325.2 POLICY

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

325.3 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.

325.3.1 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).

325.3.2 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).

325.3.3 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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325.3.4 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).

325.4 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

326.1 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.

326.2 POLICY

The San Joaquin County District Attorney's Office will assist in the expeditious collection of required biological samples from offenders in accordance with the laws of this state and with as little reliance on force as practicable.

326.3 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.

326.4 PROCEDURE

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

326.4.1 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 California DOJ to perform the collection and take steps to avoid cross contamination.

326.5 USE OF FORCE TO OBTAIN SAMPLES

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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. 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. A custody facility with additional resources, where an arrestee can be transferred to better facilitate sample collection.
g. In a custody setting, a custody 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.

326.5.1 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).

326.6 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

326.6.1 DOCUMENTATION RELATED TO FORCE

A bureau supervisor 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.

326.6.2 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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326.6.3 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

327.1 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.

327.2 POLICY

It is the policy of this bureau to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The San Joaquin County District Attorney's Office will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

327.3 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 scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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327.3.1 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:

1. 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.
2. Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers_deputies should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
    1. Except when a court order exists limiting contact, the officer_deputy should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
3. Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
4. Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.
5. Notify the supervisor 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.

327.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

327.3.3 REPORTING

a. For all arrests where children are present or living in the household, the reporting member will document the following information:

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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

327.3.4 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.

327.4 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).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the bureau facility, transported in an allied agencies 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.

327.5 TRAINING

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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 POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

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Off-Duty Law Enforcement Actions

328.1 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 San Joaquin County District Attorney's Office with respect to taking law enforcement action while off-duty.

328.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged. Investigators should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Investigators are not expected to place themselves in unreasonable peril. However, any sworn member of this bureau who becomes aware of an incident or circumstance that they 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.

328.3 FIREARMS

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

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.

328.4 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.
d. The lack of cover.

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e. The potential for increased risk to bystanders if the off-duty investigator were to intervene.
f. Unfamiliarity with the surroundings.
g. The potential for the off-duty investigator to be misidentified by other peace officers or members of the public.

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

328.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary the investigator should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty investigator is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the investigator should loudly and repeatedly identify themself as a peace officer until acknowledged. Official identification should also be displayed.

328.4.2 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.

328.4.3 PROFESSIONAL STAFF RESPONSIBILITIES

Professional Staff 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.

328.4.4 OTHER CONSIDERATIONS

When encountering a non-uniformed investigator in public, uniformed investigators should wait for acknowledgement by the non-uniformed investigator in case he/she needs to maintain an undercover capability.

328.5 REPORTING

Any off-duty investigator who engages in any law enforcement activity, regardless of jurisdiction, shall notify their supervisor 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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Gun Violence Restraining Orders

329.1 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).

329.1.1 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).

329.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office 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.

329.3 GUN VIOLENCE RESTRAINING ORDER COORDINATOR

Due to the infrequency and exceptional nature of circumstances in which an investigator will obtain or serve a gun violence restraining order, investigators should obtain the assistance of a gun violence restraining order coordinator from an allied agency before serving any gun violence restraining order.

329.4 GUN VIOLENCE RESTRAINING ORDERS

District Attorney 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 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).

329.4.1 ADDITIONAL CONSIDERATIONS

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Investigators should also consider requesting permission to petition the court for a gun violence restraining order (Penal Code § 18108):

a. When responding to a residence that is associated with a firearm registration or record.
b. When responding to any incident when a firearm is present or when one of the involved parties owns, possesses, or expresses an intent to acquire 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 themself or another person by having custody or control of a firearm or expresses intent to obtain a firearm (see the Mental Illness Commitments Policy) (Penal Code § 18108).

329.5 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS

District Attorney 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 into the case and promptly enter the information into the California Restraining and Protective Order System (Penal Code § 18115).

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

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

329.5.1 TEMPORARY EMERGENCY GUN VIOLENCE RESTRAINING ORDERS

District Attorney Investigator requesting a temporary emergency gun violence restraining order shall (Penal Code § 18140):

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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.

329.6 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 the Warrant Service Policy. Additionally, (Penal Code § 1542.5):

1. 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.
2. 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.
3. 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.

329.7 STORAGE AND 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 stored in accordance with the Property and Evidence Policy.

Firearms and ammunition shall be returned to the restrained person upon the expiration of the order in accordance with Penal Code § 18120 and the Property and Evidence Policy (Penal Code § 18108).

329.8 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS

The Bureau of Investigation supervisor is responsible for the review of a gun violence restraining order (including temporary or ex parte orders) obtained by the bureau to determine if renewal should be requested within the time prescribed by law (Penal Code § 18190).

329.9 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).

329.10 TRAINING

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The Administrative Lieutenant should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

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Native American Graves Protection and Repatriation

330.1 PURPOSE AND SCOPE

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

330.1.1 DEFINITIONS

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

Funerary objects - Objects that, as part of the death rite or ceremony of a Native American culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains. Funerary objects are either associated funerary objects or unassociated funerary objects.

Associated funerary objects are any funerary objects related to removed human remains, where the location of the human remains is known. This includes objects that were made exclusively for burial purposes or to contain human remains, regardless of the physical location or existence of any related human remains.

Unassociated funerary objects are any other funerary objects that are identified by a preponderance of the evidence such as:

- Related to human remains but the remains were not removed, or the location of the remains is unknown.
- Related to specific individuals or families.
- Removed from specific burial sites with Native American cultural affiliation.
- Removed from an area where such burial sites are known to have existed, but the site no longer exists.

Native American human remains - Any physical part of the body of a Native American individual.

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

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

330.2 POLICY

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

330.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, unassociated funerary objects, sacred objects, or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.5).

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

Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.5):

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

330.4 EVIDENCE AND PROPERTY

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.7).

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Generative Artificial Intelligence Use

331.1 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. Additional guidelines for preparing reports are found in Report Preparation Policy.

331.1.1 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.

331.2 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 San Joaquin County District Attorney's Office.

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.

331.3 RESPONSIBILITIES

331.3.1 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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331.3.2 AI COORDINATOR

The Chief Investigator or the authorized designee shall appoint an AI coordinator. The AI coordinator shall report to the AdministrationLieutenant 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.
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.

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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.

331.4 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.

331.4.1 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).

331.5 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.

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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.

331.6 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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Outside Subpoena Service Requests

332.1 PURPOSE AND SCOPE

This policy provides guidance for members of the Bureau that may be required to process subpoenas on behalf of or at the request of outside agencies.

332.2 POLICY

The San Joaquin County District Attorney's Office Bureau of Investigation will assist other District Attorney's Offices with the service of subpoenas in our jurisdiction whenever possible.

332.3 PROCEDURES

Agencies requesting outside subpoena service should contact the Bureau Subpoena Team with all requests. If the request is urgent or less than one week before the hearing date, the request will be treated as a rush request and assigned as such. Although an outside subpoena may be a rush, all Bureau rush requests will be handled with first priority.

Outside agencies requesting subpoena assistance should provide the following documentation and information to assist with serving any subpoenas:

a. Subpoena(s) and Proof of Service form(s).
b. Police Report segments that describes involvement of person(s) to be served.
c. Telephone number of requestor: (Direct Line, cell phone, email).
d. Description of person(s) to be served (include CDL, printout/photo, DOB, CII/FBI#, if known).
e. Prior history of person(s) to be served.
f. Reason for personal service:
    1. Person is uncooperative/hostile.
    2. Person is associate/relative of the defendant.
    3. Person is co-defendant.

332.3.1 CASE FILE

Upon receipt of the outside subpoena request, a case number and case file will be created. All of the above requested documentation and information should be entered into the case file for reference.

332.3.2 DUE DILIGENCE

Members assigned to serve an outside agency subpoena may at times be unable to locate the the person named on the subpoena. In these cases members should document all actions taken to locate the person named on the subpoena and notify the requesting party of their results. Notes of the actions taken should be entered into the case file for further

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reference. In the event the requesting party requires a documented report, the member should complete a documented report using the case number assigned to the outside agency request and upon supervisor approval, forwarded to the requestor.

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Anti-Reproductive Rights Crimes Reporting

333.1 PURPOSE AND SCOPE

This policy shall establish a procedure for the mandated reporting of Anti-Reproductive Rights Crimes (ARRC) to the Attorney General pursuant to the Reproductive Rights Law Enforcement Act (Penal Code § 13775 et seq.).

333.2 DEFINITIONS

Penal Code § 423.2 provides that the following acts shall be considered Anti-Reproductive Rights Crimes (ARRC) when committed by any person, except a parent or guardian acting towards his or her minor child or ward:

a. By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant

b. By non-violent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider or assistant

c. Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility

333.3 REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

a. Upon the receipt of the report of an ARRC, it shall be the responsibility of the employee taking such a report to also complete an ARRC Data Collection Worksheet (BCIA 8371) in accordance with the instructions contained on such forms.

b. The ARRC Data Collection Worksheet shall be processed with all related reports and forwarded to the Investigation Lieutenant.

c. By the tenth day of each month, it shall be the responsibility of the Investigation Lieutenant to ensure that a Summary Worksheet (BCIA 8370) is submitted to the Department of Justice Criminal Justice Statistics Center.

    1. In the event that no ARRC(s) were reported during the previous month, a Summary Worksheet shall be submitted to Department of Justice with an indication that no such crimes were reported.

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2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).

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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 San Joaquin County District Attorney's Office's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the 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).

This includes biased conduct, including but not limited to conduct online, such as social media use, engaged in by a peace officer in any encounter with the public, first responders, or employees of criminal justice agencies, that is motivated by bias toward any person's protected class or characteristic, whether actual or perceived as identified in Civil Code 51(b) of the Unruh Civil Rights Act. Biased conduct may result from implicit and explicit biases. Conduct is biased if a reasonable person with the same training and experience would conclude, based upon the facts, that a peace officer's conduct resulted from bias towards that person's membership in a protected class. A peace officer need not admit biased or prejudiced intent for conduct to be determined to be biased conduct (Penal Code § 13510.6; 11 CCR 1022).

400.2 POLICY

The San Joaquin County District Attorney's Office is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this 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.

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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.
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

District Attorney 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).

400.4.3 REPORTING OF STOPS

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Unless an exception applies under 11 CCR 999.227, an investigator conducting a stop of a person shall collect the data elements required by Government Code § 12525.5 and 11 CCR 999.226 for every person stopped and prepare a stop data report. When multiple investigators conduct a stop, the investigator with the highest level of engagement with the person shall collect the data elements and prepare the report (11 CCR 999.227).

If multiple agencies are involved in a stop and the San Joaquin County District Attorney's Office is the primary agency, the San Joaquin County District Attorney's Office investigator shall collect the data elements and prepare the stop data report (11 CCR 999.227).

The stop data report should be completed by the end of the investigator's shift or as soon as practicable (11 CCR 999.227).

400.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

1. Supervisors should discuss any issues with the involved investigator and their supervisor in a timely manner.
    1. Supervisors should document these discussions in the prescribed manner.
2. Supervisors should periodically review any available resource used to document contact between investigators and the public to ensure compliance with the policy.
    a. Supervisors should document these periodic reviews.
    b. Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.
3. Supervisors shall initiate investigations of any actual or alleged violations of this policy.
4. 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 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Internal Affairs Manager 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.

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).

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

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Training should be conducted as directed by the Administrative Division.

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)).

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Hazardous Material Response

401.1 PURPOSE AND SCOPE

Exposure to hazardous materials presents potential harm to bureau members and the public. This policy outlines the responsibilities of members who respond to these events and the factors that should be considered while on-scene, including the reporting of exposures and supervisor responsibilities. To comply with 8 CCR § 5194, the following is to be the policy of this bureau.

401.1.1 DEFINITIONS

Definitions related to this policy include:

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

401.2 HAZARDOUS MATERIAL RESPONSE

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

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

a. Notify local law enforcement dispatch of the incident and request their response.
b. Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest, or statements from the person transporting).
c. Notify the fire department, via local law enforcement dispatch.
d. Provide first-aid for injured parties if it can be done safely and without contamination.
e. Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
f. Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).
g. Notify the Department of Toxic Substances Control. This is mandatory when an investigator comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety Code § 79355).

401.3 REPORTING EXPOSURE

Bureau members who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the member in an employee memorandum that shall be forwarded via chain of command to the Lieutenant as soon as practicable. Should the affected member be unable

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to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the report.

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

401.3.1 SUPERVISOR RESPONSIBILITY

When a supervisor has been informed that a member has been exposed to a hazardous material, the supervisor shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of members, safety equipment is available through supervisory personnel. Safety items not maintained by the bureau will be obtained through the fire department.

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Hostage and Barricade Incidents

402.1 PURPOSE AND SCOPE

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

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

402.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

402.2 POLICY

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

The San Joaquin County District Attorney's Office Bureau of Investigation does not maintain its own Crisis Response Unit (CRU). In the event of a hostage or barricaded situation, the investigator shall request the assistance of the allied venue agency to respond. The use of a CRU team will be at the discretion of the allied venue agency. Investigators shall as soon as practicable notify their supervisor of the incident.

402.3 COMMUNICATION

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

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402.4 INVESTIGATOR CONSIDERATIONS

First responding investigator should immediately request a supervisor's response as soon as it is determined that a hostage or barricade situation exists. The investigator shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The investigator shall continually evaluate the situation, including the level of risk to investigators, to the persons involved and to bystanders, and the resources currently available.

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

402.4.1 BARRICADE SITUATION

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

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

402.4.2 HOSTAGE SITUATION

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

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a. Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
b. Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
c. Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).
d. Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
e. Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
f. Provide responding emergency personnel with a safe arrival route to the location.
g. Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
h. Coordinate pursuit or surveillance vehicles and control of travel routes.
i. Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
j. Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
k. Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
l. Determine the need for and notify the appropriate persons within and outside the bureau, such as command officers and the PIO.
m. If necessary and available, establish a tactical or exclusive radio frequency for the incident.

402.5 SUPERVISOR RESPONSIBILITIES

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

1. Ensure injured persons are evacuated and treated by medical personnel.
2. Ensure the completion of necessary first responder responsibilities or assignments.
3. Establish a command post location as resources and circumstances permit.

402.6 REPORTING

Investigators at the scene shall complete a documented report of the incident and their actions taken.

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Response to Bomb Calls

403.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the San Joaquin County District Attorney's Office in their initial response to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of investigators or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

403.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

403.3 RECEIPT OF BOMB THREAT

Bureau members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device. Members who received the bomb threat should immediately notify the allied law enforcement agency where the threat occurs.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established bureau evidence procedures.

The member receiving the bomb threat should ensure that a supervisor is immediately advised and informed of the details. This will enable the supervisor to ensure that the appropriate personnel are contacted, and, as appropriate, the threatened location is given an advance warning.

403.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

403.4.1 SAN JOAQUIN COUNTY DISTRICT ATTORNEY'S OFFICE FACILITY

If the bomb threat is against the San Joaquin County District Attorney's Office facility, the lieutenant will direct and assign investigators as required for coordinating a general building search or evacuation of the bureau, as he/she deems appropriate.

403.5 PRIVATE FACILITY OR PROPERTY

When a member of this bureau receives notification of a bomb threat at a location in the county of San Joaquin, the member receiving the notification shall as soon as practicable contact the venue law enforcement agency. Members should then obtain as much information as reasonably possible from the notifying individual, to help assist the responding venue law enforcement agency. This would include the following:

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1. The location of the facility.
2. The nature of the threat.
3. Whether the type and detonation time of the device is known.
4. Whether the facility is occupied and, if so, the number of occupants currently on-scene.
5. Whether the individual is requesting law enforcement assistance at the facility.
6. Whether there are any internal facility procedures regarding bomb threats in place, such as:
    1. No evacuation of personnel and no search for a device.
    2. Search for a device without evacuation of personnel.
    3. Evacuation of personnel without a search for a device.
    4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the venue agency incident commander is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

403.6 FOUND DEVICE

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

1. No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
2. The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.
3. Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:
    a. Two-way radios
    b. Cell phones
    c. Other personal communication devices
4. The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
5. The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
6. A safe access route should be provided for responding personnel and equipment.
7. Search the area for secondary devices as appropriate and based upon available resources.
8. Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
9. Promptly relay available information to the incident commander including:
    1. The time of discovery.
    2. The exact location of the device.
    3. A full description of the device (e.g., size, shape, markings, construction).
    4. The anticipated danger zone and perimeter.
    5. The areas to be evacuated or cleared.

403.7 EXPLOSION/BOMBING INCIDENTS

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When an explosion has occurred, there are multitudes of considerations which may confront the responding investigators. As in other catastrophic events, a rapid response may help to minimize injury to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

403.7.1 CONSIDERATIONS

Investigators responding to explosions, whether accidental or a criminal act, should consider the following actions:

a. Assess the scope of the incident, including the number of victims and extent of injuries.
b. Request additional personnel and resources, as appropriate.
c. Assist with first aid.
d. Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
e. Assist with the safe evacuation of victims, if possible.
f. Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
g. Preserve evidence.
h. Establish an outer perimeter and evacuate if necessary.
i. Identify witnesses.

403.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Venue law enforcement agency
- Fire department
- Bomb squad
- Additional bureau personnel
- Bureau supervisor

403.7.3 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

403.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. A bureau supervisor should assign investigators to protect the crime scene area until relieved by the venue law enforcement agency. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

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Crisis Intervention Incidents

404.1 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.

404.1.1 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.

404.2 POLICY

The San Joaquin County District Attorney's Office is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. Members should as soon as practicable contact the law enforcement agency of jurisdiction to respond at the onset of a crisis intervention incident. The law enforcement agency of jurisdiction should have intervention strategies in place to assist those experiencing a mental health crisis. This to ensure equitable and safe treatment of all involved.

404.3 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

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.

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404.4 INVESTIGATOR RESPONSE TO INCIDENTS

Safety is a priority for investigators. 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.

District Attorney Investigators responding to an incident involving a person in crisis should:

1. Notify the law enforcement agency of jurisdiction.
2. Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
3. Request available backup investigators 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.
4. If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
5. 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).
6. 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.
7. Secure the scene and clear the immediate area as necessary.
8. Employ tactics to preserve the safety of all participants.
9. Determine the nature of any crime.
10. Request a supervisor, as warranted.
11. Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.
12. If circumstances reasonably permit, consider and employ alternatives to force.

404.5 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:

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- 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.

404.6 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. As necessary, conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the lieutenant.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

404.7 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.

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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.

404.7.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

404.8 PROFESSIONAL STAFF INTERACTION WITH PEOPLE IN CRISIS

Professional Staff 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.

404.9 TRAINING

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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Mental Illness Commitments

405.1 PURPOSE AND SCOPE

This policy provides guidelines for when investigators may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

405.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

Investigators in contact with a subject who may need a psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150), should as soon as practicable contact the law enforcement agency of jurisdiction to handle the incident. In circumstances, where probable cause exists, investigators may detain a subject who is an imminent danger to themselves or others. In extreme cases where an investigator has to take further action, the following guidelines should be adhered to.

405.3 AUTHORITY

District Attorney Investigator having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the investigator believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, investigators are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person’s mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

a. An individual who is providing or has provided mental health treatment or related support services to the person
b. A family member
c. The person subject to the determination or anyone designated by the person

405.3.1 VOLUNTARY EVALUATION

If an investigator encounters an individual who may qualify for a 5150 commitment, the investigator may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the investigators should:

a. Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.

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b. Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

If at any point the person changes their mind regarding voluntary evaluation, investigators should proceed with the 5150 commitment, if appropriate.

405.4 CONSIDERATIONS AND RESPONSIBILITIES

Any investigator handling a call involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

a. Available information that might assist in determining the cause and nature of the person’s action or stated intentions.

b. Community or neighborhood mediation services.

c. Conflict resolution and de-escalation techniques.

d. Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade investigators from taking reasonable action to ensure the safety of the investigators and others.

Investigators should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

405.4.1 SECURING OF PROPERTY

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the investigator shall take reasonable precautions to safeguard the individual’s personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The investigator taking the person into custody shall provide a report to the court that describes the person’s property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the investigator shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

405.5 TRANSPORTATION

Transport for any individual for a 5150 commitment shall be conducted in accordance with the Transporting Persons in Custody Policy.

405.6 TRANSFER TO APPROPRIATE FACILITY

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Upon arrival at the facility, the investigator will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the investigator should provide the staff member with the written application for a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting investigator should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the investigator may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, investigators will not apply facility-ordered restraints.

405.7 DOCUMENTATION

The investigator shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for investigator involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The investigator should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

405.7.1 ADVISEMENT

The investigator taking a person into custody for evaluation shall advise the person of:

a. The investigator’s name and agency.
b. The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.
c. The name of the facility to which the person is being taken.
d. If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the investigator must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The investigator should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

405.8 CRIMINAL OFFENSES

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Investigators investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the investigator should:

a. Arrest the individual when there is probable cause to do so.

b. Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.

c. Facilitate the individual's transfer to jail.

d. Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this bureau to regain custody of the individual, bureau resources (e.g., posting a guard) and other relevant factors in making this decision.

405.9 FIREARMS AND OTHER WEAPONS

Whenever a person is taken into custody for a 5150 commitment, the handling investigators should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Investigators should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

The law enforcement agency of jurisdiction shall be contacted to assist in the collection and booking of any firearms or other deadly weapons in accordance with the Property and Evidence Policy.

Investigators are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

A receipt shall be issued describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Investigators shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see the Property and Evidence Policy).

405.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS

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Whenever the handling investigator has cause to believe that the future return of any confiscated weapon might endanger the person or others, the investigator shall detail those facts and circumstances in a report. The report shall be forwarded to the Administrative Division, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the bureau makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the bureau shall send written notice to the individual informing him/her of the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

405.10 TRAINING

This bureau will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments and crisis intervention.

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Cite and Release Policy

406.1 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.

406.2 POLICY

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

If there is a reason for non-release, the bureau's mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of being held for court or bail.

406.3 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.

406.3.1 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 later.

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.

406.4 NON-RELEASE

406.4.1 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))

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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)

406.4.2 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 investigator's lieutenant 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)):

1. 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.
2. The person arrested requires medical examination or medical care or is otherwise unable to care for their own safety.
3. The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.
4. There are one or more outstanding arrest warrants for the person (see Misdemeanor Warrants elsewhere in this policy).
5. 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.
6. 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.
7. 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.
8. The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.
9. 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

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10. A previous conviction, citation, or arrest for misdemeanor or felony retail theft from a store in the previous six months.
11. 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 Lieutenant for approval and included with the case file in the Records Section.

406.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, subject to lieutenant approval, 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.
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.

406.6 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of the San JoaquinCounty codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred for further action including diversion.

406.7 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

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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

407.1 PURPOSE AND SCOPE

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

407.2 POLICY

The San Joaquin County District Attorney's Office respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

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

407.3 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.

407.4 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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1. 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.
2. 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.
3. 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.
4. 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
5. 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.

407.5 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.

407.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
						Same as

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Diplomatic Agent	No (note (b))	No	Yes	No	No	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	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity &

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Int'l Org						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:

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

408.1 PURPOSE AND SCOPE

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

408.1.1 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.

408.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this bureau in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

408.3 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.

408.4 IMMIGRATION INQUIRIES PROHIBITED

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

408.4.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)

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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).

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).

408.4.2 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).

408.5 DETENTIONS AND ARRESTS

District Attorney Investigators 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).

District Attorney Investigators who have 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).

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

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

408.5.1 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.

408.6 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

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whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

408.7 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.

408.7.1 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.

408.7.2 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 San Joaquin County District Attorney's Office intends to comply with the request (Government Code § 7283.1).

If the San Joaquin County District Attorney's Office provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

408.7.3 ICE INTERVIEWS

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Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the San Joaquin County District Attorney's Office shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

408.7.4 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Government Code § 7282.5; Government Code § 7284.6):

a. Transfer is authorized by a judicial warrant or judicial probable cause determination.
b. The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
c. The individual is a current registrant on the California Sex and Arson Registry.
d. The individual is identified by the U.S. Department of Homeland Security’s Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

408.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Administrative Lieutenant 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).

408.8 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 investigator's supervisor assigned to oversee the handling of any related case. The supervisor should:

1. Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
2. 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.
3. 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.

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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 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)

4. 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).
5. Inform the victim liaison of any requests and their status.

408.8.1 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.

408.8.2 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).

408.8.3 REPORTING TO LEGISLATURE

The Administrative Lieutenant or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

408.9 TRAINING

The Administrative Lieutenant should ensure that all appropriate members receive training on immigration issues.

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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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Contacts and Temporary Detentions

409.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI), pat-down searches, taking photographs of subjects and the disposition of those photographs.

409.1.1 DEFINITIONS

Definitions related to this policy include:

Consensual encounter - When an investigator contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the investigator is voluntary.

Field interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the investigator's suspicions.

Field photographs - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-down search - A type of search used by investigators in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the investigator, the detainee, or others.

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

Temporary detention - When an investigator intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an investigator actually restrains a person’s freedom of movement.

409.2 POLICY

The San Joaquin County District Attorney's Office respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the investigator, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field photograph shall be left to the investigator based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

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409.3 FIELD INTERVIEWS

Based on observance of suspicious circumstances or upon information from an investigation, an investigator may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the investigator's suspicion.

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

409.3.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the investigator should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

a. Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act
b. Actions suggesting that he/she is engaged in criminal activity
c. Presence in an area at an inappropriate hour of the day or night
d. Presence in a particular area is suspicious
e. Carrying of suspicious objects or items
f. Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon
g. Location in proximate time and place to an alleged crime
h. Physical description or clothing worn that matches a suspect in a recent crime
i. Prior criminal record or involvement in criminal activity as known by the investigator

409.4 PAT-DOWN SEARCHES

Once a valid stop has been made, and consistent with the investigator's training and experience, an investigator may pat a suspect's outer clothing for weapons if the investigator has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the investigator to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

a. The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
b. Where more than one suspect must be handled by a single investigator.
c. The hour of the day and the location or neighborhood where the stop takes place.
d. Prior knowledge of the suspect's use of force and/or propensity to carry weapons.
e. The actions and demeanor of the suspect.
f. Visual indications which suggest that the suspect is carrying a firearm or other weapon.

Whenever practicable, a pat-down search should not be conducted by a lone investigator. A cover investigator should be positioned to ensure safety and should not be involved in the search.

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409.5 FIELD PHOTOGRAPHS

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the investigator shall carefully consider, among other things, the factors listed below.

409.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent. When taking a consensual photograph, the investigator should document the subject's consent in an associated report (s).

409.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The investigator must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the investigator's reasonable suspicion of criminal activity has been dispelled, the detention must cease, and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

409.5.3 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the investigator's supervisor with either an associated FI card or other documentation explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation, the investigator's supervisor should review and forward the photograph to one of the following locations:

a. If the photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the investigator's supervisor will forward the photograph and documents to the appropriate allied agency to be added to their designated criminal intelligence system. The supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.
b. Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the investigators supervisor.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

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409.5.4 SUPERVISOR RESPONSIBILITIES

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph is taken.

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

409.6 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, investigators should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

a. Identifying all persons present at the scene and in the immediate area.
    1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
    2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, 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 San Joaquin County District Attorney's Office members.
    1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

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Body-Worn Cameras

410.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of a body-worn camera (BWC) by members of this bureau and for the access, use, and retention of bureau BWC media.

This policy does not apply to a variety of operations including, but not limited to undercover operations, wiretaps, eavesdropping (concealed listening devices), contacts that, by law, are confidential in nature and other situations in which the video would unreasonably violate privacy or reveal operational tactics likely to endanger or disrupt officer safety or future investigations.

410.1.1 DEFINITIONS

Definitions related to this policy include:

Activate - To place a BWC in active mode (also called event mode). In active mode, the BWC records both video and audio.

BWC media - The video, audio, and images captured by bureau BWCs and the associated metadata.

BWC media systems - Any software, including web-based programs and mobile applications, used by the bureau to upload/download, store, view, transfer, and otherwise maintain BWC media.

Deactivate - To place a BWC in buffering mode (also called ready or pre-event mode). In buffering mode, the BWC records video (without audio) in short, predetermined intervals that are retained only temporarily. However, when a BWC is activated, the interval recorded immediately prior to activation is then stored as part of the BWC media. Deactivate does not mean powering off the BWC.

Event - A general term referring to a set of circumstances that may, but does not necessarily, correlate directly to a single public safety incident.

410.2 POLICY

It is the policy of the bureau to use BWCs and BWC media for evidence collection and to accurately document events in a way that promotes member safety and bureau accountability and transparency while also protecting the privacy of members of the public.

In all matters, this policy shall comply with the provisions of Section 832.18 of the Penal Code.

410.3 BWC USE

The bureau may provide members with BWCs for use during the performance of their duties. Members shall use a BWC during the following assignments and situations, as directed by the Chief Investigator.

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Assignments and situations that are considered as mandatory for use include, but are not limited to:

- Pre-planned arrests.
- Pre-planned enforcement operations.
- Contacts during case assignments that are anticipated to involve confrontational or controversial encounters.
- Any other circumstances as directed by the Chief Investigator or authorized designee.
- Investigators assigned to Task Forces (except where, by their very nature, the application of the BWC is not critical or where the Task Force host agency's policy governs use, requires different activation/deactivation protocols, or disallows BWC usage).

For all other bureau assignments, members should deploy the BWC during enforcement activity.

Task Force Personnnel Note: bureau members serving as Task Force Officers (TFO's) shall adhere to the BWC policy of the host agency to the extent required or permitted by that agency's rules, consistent with task force guidelines. Any conflicts shall be resolved in favor of the host agency policy or through coordination with the Chief Investigator.

The following guidelines apply to the use of BWCs:

a. Only bureau-issued BWCs should be used. Members are prohibited from using any other BWC without the express consent of the Chief Investigator or the authorized designee.
b. BWCs should only be used by the member or members to whom it was issued unless otherwise authorized by a supervisor.
c. The use of bureau-issued BWCs shall be strictly limited to bureau-related activities (Penal Code § 832.18).
d. Members shall not use BWCs or BWC media systems for which they have not received prior authorization and appropriate training.
e. Members shall immediately report unauthorized access or use of BWCs or BWC media systems by another member to their supervisor or the Chief Investigator.

410.3.1 MEMBER RESPONSIBILITIES

Every member utilizing a BWC and associated equipment is responsible for its proper use, safekeeping, and maintenance. At the beginning of each period of BWC use, the member should inspect their assigned BWC to confirm it is charged and in good working order. As part of the inspection, the member should perform a function test by activating the BWC.

Members should wear their assigned BWC on their outermost garment positioned at or near chest level or on their belt and as close to the center of their body as practicable. Members are responsible for ensuring there are no obstructions and that the BWC remains in a position suitable for recording.

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When completing their assignment, members who have used the BWC shall ensure that they tag and download all video media upon returning the BWC to the docking station.

When a BWC is not in the physical possession of the member to which it is assigned, it should be placed on the charging dock and stored in a secure location.

Members shall report any malfunction or damage to the BWC coordinator or on-duty supervisor as soon as practicable and, if possible, obtain a functioning BWC to use either temporarily while repairs are being made to the member's BWC or as a permanent replacement.

410.3.2 PROHIBITIONS

BWCs should not be used to record:

a. Routine administrative activities of the bureau that do not involve interactions with the public. Care should be taken to avoid incidentally recording confidential documents that the bureau has a duty to keep secure (i.e., criminal justice information).
b. Areas within the bureau facilities where members have a reasonable expectation of privacy (e.g., locker rooms or dressing areas, breakrooms) unless responding to a call for service or conducting an investigation.
c. Conversations of other members without their knowledge.
d. When a member is taking an authorized break or otherwise engaged in personal activities.
e. In a courtroom unless responding to a call for service or emergency situation.
f. Interactions with undercover investigators or confidential informants.
g. Strip searches.
h. Operations where the release of BWC footage would disclose "Methods and Sources" thereby creating a future officer safety hazard or inhibit future technical evidentiary recovery, including but not limited to the following:
    1. Tactical Team entry procedures to structures.
    2. High Tech Task Force evidence counter interference measures.
    3. Child Abduction Team victim recovery during civil operations.
    4. Protective Services Unit.

BWCs shall not be used for the purpose of embarrassment, harassment, or ridicule of any individual or group.

410.4 ACTIVATION OF BWC

Members are not required to activate their BWC during casual or informal contacts with members of the public that are not part of or related to enforcement functions. However, members should activate their BWC any time a contact with an individual becomes hostile or adversarial.

At no time is a member expected to jeopardize their safety to activate their BWC. However, the BWC should be activated as soon as reasonably practicable in required situations.

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If a member attempts to activate their BWC but the BWC fails to record an event, the member should notify their supervisor as soon as practicable.

410.4.1 NOTICE OF RECORDING

Unless otherwise approved based on unique circumstances, a member should wear the BWC in a manner that is conspicuous and shall answer truthfully if asked whether they are equipped with a BWC or if their BWC is activated.

Sworn 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).

Non-Sworn members may record during a criminal investigation or other law enforcement activity, while in a public location where there is no reasonable expectation of privacy. Upon entering or within a location where the citizen has a reasonable expectation of privacy, the non-sworn members may record upon notification to and the approval from the citizen.

410.4.2 PRIVACY CONSIDERATIONS

Members should remain sensitive to the dignity of individuals being recorded and should exercise sound discretion with respect to privacy concerns.

When responding to a place where individuals have an expectation of privacy (e.g., private residences, medical or mental health facilities, restrooms, other county buildings) or to a sensitive situation (e.g., individuals partially or fully unclothed), members are permitted to mute or deactivate their BWC if it reasonably appears that the privacy concern outweighs any legitimate bureau interest in recording the event.

Members should choose to mute rather than deactivate BWCs when practicable. Deactivation should only be used when muting the BWC will not accomplish the level of privacy necessary for the situation.

Before muting or deactivating their BWC, the member should verbally narrate the reason on the recording. As soon as possible once the privacy concern is no longer an issue, or when circumstances change so that the privacy concern no longer outweighs the bureau's interest in recording the event (e.g., the individual becomes combative, the conversation ends), the member should unmute or reactivate their BWC and verbally note that recording has resumed.

Members may also mute or deactivate their BWC:

a. To protect the privacy of a victim or witness.
b. When an individual wishes to provide information anonymously.
c. To avoid recording a confidential informant or undercover officer_deputy.

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d. When discussing case tactics or strategy.
e. During private conversations with other members or emergency responders.

410.4.3 LIVESTREAMING

Livestreaming enables authorized individuals to remotely view the audio and video captured by a member's BWC in real time. Remote monitoring shall be approved only by supervisors, Lieutenants, the Assistant Chief Investigator and the Chief Investigator.

Livestreaming should only be activated:

a. For purposes of member safety when the member is not responding to their radio or there is some other indication of distress.
b. When requested by the member.

410.5 DOWNLOADING BWC MEDIA

Unless otherwise authorized by a supervisor, all media from a member's BWC should be properly downloaded and tagged before the end of their shift. BWC media related to a serious or high-profile event (e.g., search for a missing child, active shooter situation) should be downloaded and tagged as soon as practicable upon returning to the bureau (Penal Code § 832.18).

Following an officer involved shooting or death or other event deemed necessary, a supervisor should take possession of the BWC for each member present and download and tag the BWC media if the storage system does not have automatic downloading capacity (Penal Code § 832.18).

410.5.1 TAGGING BWC MEDIA

Members should tag all media captured by their BWC with their name and/or identification number, the case or incident number, and the event type. BWC media should be tagged upon downloading or, if capabilities permit tagging in the field, as close to the time of the event as possible. If more than one event type applies to BWC media, it should be tagged with each event type. If BWC media can only be tagged with a single event type, the media should be tagged using the event type with the longest retention period.

BWC media depicting sensitive circumstances or events should be tagged as restricted. BWC media should be flagged for supervisor review when it pertains to a significant event such as:

a. An incident that is the basis of a formal or informal complaint or is likely to result in a complaint.
b. When a member has sustained a serious injury or a line-of-duty death has occurred.
c. When a firearm discharge or use of force incident has occurred.
d. An event that has attracted or is likely to attract significant media attention.

Supervisors should conduct audits at regular intervals to confirm BWC media is being properly downloaded and tagged by their subordinates.

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410.6 BWC MEDIA

All BWC media is the sole property of the bureau (Penal Code § 832.18). Members shall have no expectation of privacy or ownership interest in the content of BWC media.

Members shall not alter, copy, delete, release, or permit access to BWC media other than as permitted in this policy without the express consent of the Chief Investigator or the authorized designee (Penal Code § 832.18).

BWC media systems should not be accessed using personal devices unless authorized by the Chief Investigator or the authorized designee.

410.6.1 ACCESS AND USE OF BWC MEDIA

BWC media systems shall only be accessed by authorized members using the member's own login credentials and in accordance with the Information Technology Use Policy.

BWC media shall only be accessed and viewed for legitimate bureau-related purposes in accordance with the following guidelines:

a. BWC media tagged as restricted should only be accessible by those designated by the Chief Investigator or the authorized designee.
b. Members may review their own BWC media for bureau-related purposes. Members should document in their report if they reviewed BWC media before completing the report.
c. Investigators may review BWC media pertaining to their assigned cases.
d. A member testifying regarding a bureau-related event may review the pertinent BWC media before testifying.
e. Supervisors are permitted to access and view BWC media of their subordinates.
    1. Supervisors may review BWC media that is tagged as a significant event or that the supervisor is aware pertains to a significant event.
    2. Supervisors may conduct documented reviews of their subordinate's BWC media at least annually to evaluate the member's performance, verify compliance with bureau procedures, and determine the need for additional training.
f. An authorized lieutenant is permitted to access and view BWC media for training purposes.
    1. The Lieutenant overseeing the BWC program may conduct a quarterly review of a random sampling of BWC media to evaluate bureau performance and effectiveness and to identify specific areas where additional training or changes to protocols would be beneficial.
    2. The authorized lieutenant may use BWC media for training purposes with the approval of the Chief Investigator or the authorized designee. The lieutenant should use caution to avoid embarrassing or singling out a member and, to the extent practicable, should seek consent from the members appearing in the BWC media before its use for training. When practicable, sensitive issues depicted in BWC media should be redacted before being used for training.
g. The BWC Coordinator may access BWC media when necessary to conduct bureau-related duties.

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h. The BWC coordinator may access BWC media and the BWC media system as needed to ensure the system is functioning properly, provide troubleshooting assistance, conduct audits, and fulfill other responsibilities related to their role.

410.6.2 PUBLIC ACCESS

Unless disclosure is required by law or a court order, BWC media should not be released to the public if it unreasonably violates a person's privacy or sense of dignity or depicts:

a. The interior of a private residence.
b. The interior of a facility that offers health care, mental health or substance abuse treatment, or social services.
c. The interior of school buildings.
d. The interior of any other buildings in which public access is restricted or which implicates heightened security concerns.
e. Access would reveal operational tactics that could, ulitimately, endanger officer safety or impede future investigations.

Requests for the release of BWC media shall be processed in accordance with the Records Maintenance and Release Policy. The Administrative Lieutenant should review BWC media before public release.

410.7 RETENTION OF BWC MEDIA

Non-evidentiary BWC media should be retained for a minimum of 60 days, after which it may be erased, destroyed, or recycled. Non-evidentiary media may be kept for more than 60 days for availability in case of a civilian complaint and to preserve transparency (Penal Code § 832.18).

Unless circumstances justify continued retention, BWC media should be permanently deleted upon the expiration of the retention period in a way that it cannot be retrieved. BWC media shall not otherwise be deleted by any person without the authorization of the Chief Investigator or the authorized designee.

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

410.7.1 EVIDENTIARY BWC MEDIA

BWC media relevant to a criminal prosecution should be exported from the BWC media system and securely transferred to digital evidence storage according to established bureau procedures. Evidentiary BWC media is subject to the same laws, policies, and procedures as all other evidence, including chain of custody, accessibility, and retention periods (see the Property and Evidence Policy).

Evidentiary BWC media should be retained for a minimum of two years under the following circumstances (Penal Code § 832.18):

a. The recording is of an incident involving the use of force by an investigator or an officer-involved shooting.
b. The recording is of an incident that leads to the detention or arrest of an individual.

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c. The recording is relevant to a formal or informal complaint against an investigator or the San Joaquin County District Attorney's Office.

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

410.8 TRAINING

All investigators and investigative assistants shall receive annual training on this policy.

The BWC coordinator should ensure that each member issued a BWC receives initial training before use, and periodic refresher training thereafter. Training should include:

a. Proper use of the BWC device and accessories.
b. When BWC activation is required, permitted, and prohibited.
c. How to respond to an individual's request to stop recording.
d. Proper use of the BWC media systems, including downloading and tagging procedures.
e. Security procedures for BWC media, including appropriate access and use.

Members who are not issued a BWC but who have access to BWC media systems shall receive training on the BWC media system, including appropriate access, use, and security procedures.

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Public Recording of Law Enforcement Activity

411.1 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this bureau. In addition, this policy provides guidelines for situations where the recordings may be evidence.

411.2 POLICY

The San Joaquin County District Attorney's Office recognizes the right of persons to lawfully record members of this bureau who are performing their official duties. Members of this bureau will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Investigators should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

411.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

1. 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).
2. 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.
3. The individual may not present an undue safety risk to the investigators, him/herself or others.

411.4 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.

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

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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.

411.5 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.

411.6 SEIZING RECORDINGS AS EVIDENCE

Investigators should not seize recording devices or media unless (42 USC § 2000aa):

1. 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.
2. There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
3. The person consents.
    1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
    2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a bureau-owned device.

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

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Foot Pursuits

412.1 PURPOSE AND SCOPE

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

412.2 POLICY

It is the policy of this bureau that investigators, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to bureau members, the public or the suspect.

Investigators are expected to act reasonably, based on the totality of the circumstances.

412.3 DECISION TO PURSUE

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

Investigators may be justified in initiating a foot pursuit of any individual the investigator reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual’s involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that an investigator must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place bureau members and the public at significant risk. Therefore, no investigator or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an investigator should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

a. Containment of the area.

b. Saturation of the area with law enforcement personnel, including assistance from other agencies.

c. A canine search.

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d. Thermal imaging or other sensing technology.

e. Air support.

f. Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.

412.4 GENERAL GUIDELINES

When reasonably practicable, investigators should consider alternatives to engaging in or continuing a foot pursuit when:

a. Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory

b. The investigator is acting alone.

c. Two or more investigators become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single investigator keep the suspect in sight from a safe distance and coordinate the containment effort.

d. The investigator is unsure of his/her location and direction of travel.

e. The investigator is pursuing multiple suspects and it is not reasonable to believe that the investigator would be able to control the suspect should a confrontation occur.

f. The physical condition of the investigator renders him/her incapable of controlling the suspect if apprehended.

g. The investigator loses radio contact with the dispatcher or with assisting or backup investigators.

h. The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient investigators to provide backup and containment. The primary investigator should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.

i. The investigator becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to investigators or the public.

j. The investigator reasonably believes that the danger to the pursuing investigators or public outweighs the objective of immediate apprehension.

k. The investigator loses possession of his/her firearm or other essential equipment.

l. The investigator or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.

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m. The suspect’s location is no longer definitely known.

n. The identity of the suspect is established or other information exists that will allow for the suspect’s apprehension at a later time, and it reasonably appears that there is no immediate threat to bureau members or the public if the suspect is not immediately apprehended.

o. The investigator’s ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

412.5 RESPONSIBILITIES IN FOOT PURSUITS

412.5.1 INITIATING INVESTIGATOR RESPONSIBILITIES

Unless relieved by another investigator or a supervisor, the initiating investigator shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating investigator should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient investigators are present to safely apprehend the suspect.

Early communication of available information from the involved investigators is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Investigators initiating a foot pursuit should contact the law enforcement agency of jurisdiction's dispatch, and at a minimum, broadcast the following information as soon as it becomes practicable and available:

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

Investigators should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any investigator unable to promptly and effectively broadcast this information should terminate the foot pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the investigator will notify the dispatcher of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary, to include requesting medical aid as needed for investigators, suspects or members of the public.

412.5.2 ASSISTING INVESTIGATOR RESPONSIBILITIES

Whenever any investigator announces that he/she is engaged in a foot pursuit, all other investigators should minimize non-essential radio traffic to permit the involved investigators maximum access to the radio frequency.

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412.5.3 SUPERVISOR RESPONSIBILITIES

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the foot pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established bureau guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing investigators or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-foot pursuit activity.

412.6 REPORTING REQUIREMENTS

The initiating investigator shall complete appropriate crime/arrest reports documenting, at minimum:

a. Date and time of the foot pursuit.
b. Initial reason and circumstances surrounding the foot pursuit.
c. Course and approximate distance of the foot pursuit.
d. Alleged offenses.
e. Involved vehicles and investigators.
f. Whether a suspect was apprehended as well as the means and methods used.
    1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.
g. Arrestee information, if applicable.
h. Any injuries and/or medical treatment.
i. Any property or equipment damage.
j. Name of the supervisor at the scene or who handled the incident.

Assisting investigators taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

In any case in which a suspect is not apprehended and there is insufficient information to support further investigation, a supervisor may authorize that the initiating investigator need not complete a formal report.

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Automated License Plate Readers (ALPRs)

413.1 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.

413.2 POLICY

The policy of the San Joaquin County District Attorney's Office is to utilize ALPR technology to capture and store digital license plate data and images while recognizing the established privacy rights of the public.

All data and images gathered by the ALPR are for the official use of this bureau. Because such data may contain confidential information, it is not open to public review.

413.3 ADMINISTRATION

The ALPR technology, also known as License Plate Recognition (LPR), allows for the automated detection of license plates. It is used by the San Joaquin County District Attorney's Office to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. It may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Administrative Lieutenant. The Administrative Lieutenant will assign members under his/her command to administer the day-to-day operation of the ALPR equipment and data.

413.3.1 ALPR ADMINISTRATOR

The Administration Lieutenant shall be responsible for developing guidelines and procedures to comply with the requirements of Civil Code § 1798.90.5 et seq. This includes, but is not limited to (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

a. A description of the job title or other designation of the members and independent contractors who are authorized to use or access the ALPR system or to collect ALPR information.
b. Training requirements for authorized users.
c. A description of how the ALPR system will be monitored to ensure the security of the information and compliance with applicable privacy laws.
d. Procedures for system operators to maintain records of access in compliance with Civil Code § 1798.90.52.
e. The title and name of the current designee in overseeing the ALPR operation.
f. Working with the Custodian of Records on the retention and destruction of ALPR data.
g. Ensuring this policy and related procedures are conspicuously posted on the bureau’s website.

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413.4 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.

413.5 DATA COLLECTION AND RETENTION

The Administrative Lieutenant 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.

413.6 ACCOUNTABILITY

All data will be closely safeguarded and protected by both procedural and technological means. The San Joaquin County District Attorney's Office will observe the following safeguards regarding access to and use of stored data (Civil Code § 1798.90.51; Civil Code § 1798.90.53):

a. All ALPR data downloaded to the mobile workstation and in storage shall be accessible only through a login /password-protected system capable of documenting all access of information by name, date and time (Civil Code § 1798.90.52).

b. Members approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or bureau-related civil or administrative action.

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c. ALPR system audits should be conducted on a regular basis.

For security or data breaches, see the Records Release and Maintenance Policy.

413.7 RELEASING ALPR DATA

The ALPR data may be shared only with public agencies and only as otherwise permitted by law (Civil Code § 1798.90.55).

For purposes of this section, a public agency is limited to California state or local agencies, including law enforcement agencies, and does not include out-of-state or federal law enforcement agencies (Civil Code § 1798.90.5).

The following procedures are guidelines for ALPR requests:

1. 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.
2. The request is reviewed by the Administration Lieutenant or the authorized designee and approved before the request is fulfilled.
3. The approved request is retained on file.

Requests for ALPR data by non-California public agencies will be processed as provided in the Records Maintenance and Release Policy (Civil Code § 1798.90.55).

413.8 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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Homeless Persons

414.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide investigators during all contacts with the homeless, whether consensual or for enforcement purposes. The San Joaquin County District Attorney's Office recognizes that members of the homeless community are often in need of special protection and services. The San Joaquin County District Attorney's Office will address these needs in balance with the overall mission of this bureau. Therefore, investigators will consider the following when serving the homeless community.

414.1.1 POLICY

It is the policy of the San Joaquin County District Attorney's Office to provide law enforcement services to all members of the community, while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime, and members of this bureau will not use homelessness solely as a basis for detention or law enforcement action.

414.2 PERSONAL PROPERTY

The personal property of homeless persons must not be treated differently than the property of other members of the public. Investigators should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, investigators should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, the personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the investigator, a supervisor should be consulted. The property should be photographed, and measures should be taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping of the property.

Investigators should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor. Requests by the public for clean-up of a homeless encampment should be referred to the law enforcement agency of jurisdiction.

Investigators who encounter unattended encampments, bedding or other personal property in public areas that reasonably appear to belong to a homeless person should not remove or destroy such property. The investigator should inform the law enforcement agency of jurisdiction's homeless liaison officer if such property appears to involve a trespass, blight to the community or is the subject of a complaint. It will be the responsibility of the law enforcement agency of jurisdiction to address the matter in a timely fashion.

414.3 MENTAL ILLNESS AND MENTAL IMPAIRMENT

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Some homeless persons may suffer from a mental illness or a mental impairment. Investigators shall not detain a homeless person under a mental illness commitment unless facts and circumstances warrant such a detention (see the Crisis Intervention Incidents Policy).

When a mental illness hold is not warranted, the contacting investigator should provide the homeless person with contact information for mental health assistance as appropriate. In these circumstances, investigators may provide transportation to a mental health specialist if requested by the person and approved by a supervisor.

414.4 ECOLOGICAL ISSUES

Sometimes homeless encampments can impact the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Investigators are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

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First Amendment Assemblies

415.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations. Generally, the response to public assemblies or demonstrations is the responsibility of the venue law enforcement agency. In the event the San Joaquin County District Attorney's Office Bureau of Investigation is called upon for mutual aid, the following guidelines should be adhered to.

415.2 POLICY

The San Joaquin County District Attorney's Office respects the rights of people to peaceably assemble. It is the policy of this bureau not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

415.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering. However, investigators shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors investigators may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Investigators should not:

a. Engage in assembly or demonstration-related discussion with participants.
b. Harass, confront or intimidate participants.

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c. Seize the cameras, cell phones or materials of participants or observers unless an investigator is placing a person under lawful arrest.

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

415.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating bureau performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious, or social views of associations, or the activities of any individual, group, association, organization, corporation, business, or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

415.4 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding investigator should first confirm the venue law enforcement agency has been notified, then conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to the venue agency dispatch, and a bureau supervisor should be requested to respond. The responding supervisor shall assume command of the incident until command is expressly assumed by the venue law enforcement agency.

415.5 PLANNED EVENT PREPARATION

For planned events, comprehensive incident-specific operational plans should be developed in partnership with the allied law enforcement agency of jurisdiction. The Incident Command System (ICS) should be considered for such events.

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415.5.1 INFORMATION GATHERING AND ASSESSMENT

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.
- Information about past and potential unlawful conduct associated with the event or similar events.
- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

415.6 UNLAWFUL ASSEMBLY DISPERSAL ORDERS

If a public gathering or demonstration remains peaceful and nonviolent, and there is no reasonably imminent threat to persons or property, the Incident Commander should generally authorize continued monitoring of the event.

Should the Incident Commander make a determination that public safety is presently or is about to be jeopardized, he /she or the authorized designee should attempt to verbally persuade event organizers or participants to disperse on their own accord. Warnings and advisements may be communicated through established communications links with leaders and/or participants or to the group.

When initial attempts at verbal persuasion are unsuccessful, the Incident Commander or the authorized designee should make a clear standardized announcement to the gathering that the event is an unlawful assembly, and should order the dispersal of the participants. The announcement should be communicated by whatever methods are reasonably available to ensure that the content of the message is clear and that it has been heard by the participants. The announcement should be amplified, made in different languages as appropriate, made from multiple locations in the affected area and documented by audio and video. The announcement should provide information about what law enforcement actions will take place if illegal behavior continues and should identify routes for egress. A reasonable time to disperse should be allowed following a dispersal order.

415.7 USE OF FORCE

Use of force is governed by current bureau policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies).

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Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and conducted energy devices should be considered only when the participants' conduct reasonably appears to present the potential to harm investigators, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques and the Conducted Energy Device policies).

Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this bureau shall be documented promptly, completely, and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

415.8 ARRESTS

The San Joaquin County District Attorney's Office should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

a. Reasonable measures to address the safety of investigators and arrestees.
b. Dedicated arrest, booking and report writing teams.
c. Timely access to medical care.
d. Timely access to legal resources.
e. Timely processing of arrestees.
f. Full accountability for arrestees and evidence.
g. Coordination and cooperation with the prosecuting authority, jail and courts (see the Cite and Release Policy).

415.9 MEDIA RELATIONS

The Public Information Officer should use all available avenues of communication, including press releases, briefings, press conferences, and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

415.9.1 MEDIA ACCESS

If law enforcement closed the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where

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individuals are engaged in a protected activity pursuant to the First Amendment, investigators shall comply with the requirements of Penal Code § 409.7 relating to media access (i.e., access to closed areas, obtaining information) (Penal Code § 409.7).

415.10 POST EVENT

The responding bureau supervisor should designate a member to assemble full documentation of the bureau's involvement of the event, to include the following:

a. Operational plan (venue agency, if available)
b. Any assignment logs
c. Vehicle, fuel, equipment and supply records
d. Incident, arrest, use of force, injury and property damage reports
e. Bureau photographs, audio/video recordings
f. Media accounts (print and broadcast media)

415.10.1 AFTER-ACTION REPORTING

The responding bureau supervisor should work with county legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

a. Date, time and description of the event
b. Actions taken and outcomes (e.g., injuries, property damage, arrests)
c. Problems identified
d. Significant events
e. Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

415.11 ANTI-REPRODUCTIVE RIGHTS CALLS

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

415.12 TRAINING

Bureau members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management (Penal Code § 13514.5). The bureau should, when practicable, train with its external and mutual aid partners.

Investigators should also receive periodic training on the standards for the use of kinetic energy projectiles and chemical agents for crowd control purposes as identified in Penal Code § 13652.

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Medical Aid and Response

416.1 PURPOSE AND SCOPE

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

416.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office that all investigators and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

416.3 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 local law enforcement dispatch and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

a. The location where EMS is needed.
b. The nature of the incident.
c. Any known scene hazards.
d. Information on the person in need of EMS, such as:
    1. Signs and symptoms as observed by the member.
    2. Changes in apparent condition.
    3. Number of patients, sex, and age, if known.
    4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
    5. Whether the person is showing signs or symptoms of extreme agitation or is engaging in violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, and imperviousness to pain.

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

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

416.4 TRANSPORTING ILL AND INJURED PERSONS

Except in exceptional cases where alternatives are not reasonably available, members should not transport persons who are not in custody and who are unconscious, who have serious injuries, or who may be seriously ill. EMS personnel should be called to handle patient transportation.

For guidelines regarding transporting ill or injured persons who are in custody, see the Transporting Persons in Custody Policy.

Members should not provide emergency escort for medical transport or civilian vehicles.

416.5 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, a 72-hour treatment and evaluation commitment (5150 commitment) process should be considered 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.

416.6 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, the arrestee should be medically cleared prior to booking. If the investigator has reason to believe the arrestee is fabricating or faking injury or illness, the investigator should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the investigator should note the name of the facility person refusing to accept custody and the reason for refusal and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance to an appropriate medical facility.

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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.

416.7 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.

416.8 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).

416.8.1 AED REPORTING

Any member using an AED will complete an incident report detailing its use.

416.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Trained members may administer opioid overdose medication (Business and Professions Code § 4119.9).

416.9.1 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 regularly check the medication and associated administration equipment 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 local law enforcement dispatch as soon as possible and request response by EMS.

416.9.2 DESTRUCTION OF OPIOID OVERDOSE MEDICATION

The Administrative Lieutenant shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

416.9.3 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 with enough information to meet applicable state reporting requirements.

416.9.4 OPIOID OVERDOSE MEDICATION RECORD MANAGEMENT

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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).

416.9.5 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.

416.10 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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Chapter 5 - Traffic Operations

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Traffic Citations

500.1 PURPOSE AND SCOPE

This policy outlines the responsibility for traffic citations, the procedure for dismissal, correction, and voiding of traffic citations.

500.2 RESPONSIBILITIES

The Administrative Division shall be responsible for the development and design of all bureau traffic citations in compliance with state law and the Judicial Council.

The Administrative Lieutenant shall be responsible for the supply and accounting of all traffic citations issued to employees of this bureau.

500.3 DISMISSAL OF TRAFFIC CITATIONS

Employees of this bureau do not have the authority to dismiss a citation once it has been issued. Only the court has the authority to dismiss a citation that has been issued (Vehicle Code § 40500(d)). Any request from a recipient to dismiss a citation shall be referred to the Administrative Lieutenant. Upon a review of the circumstances involving the issuance of the traffic citation, the Administrative Lieutenant may recommend dismissal of the traffic citation. If approved, the citation will be forwarded to the appropriate court with a request for dismissal. All recipients of traffic citations whose request for the dismissal of a traffic citation has been denied shall be referred to the appropriate court.

Should an investigator determine during a court proceeding that a traffic citation should be dismissed in the interest of justice or where prosecution is deemed inappropriate the investigator may request the court to dismiss the citation. Upon dismissal of the traffic citation by the court, the investigator shall notify his/her immediate supervisor of the circumstances surrounding the dismissal and shall complete any paperwork as directed or required. The citation dismissal shall then be forwarded to the Administrative Lieutanant for review.

500.4 VOIDING TRAFFIC CITATIONS

Voiding a traffic citation may occur when a traffic citation has not been completed or where it is completed but not issued. All copies of the citation shall be presented to a supervisor to approve the voiding of the citation. The citation and copies shall then be forwarded to the Administrative Lieutenant.

500.5 CORRECTION OF TRAFFIC CITATIONS

When a traffic citation is issued and in need of correction, the investigator issuing the citation shall submit the citation and a letter requesting a specific correction to his/her immediate supervisor. The investigator shall prepare a letter of correction to the court having jurisdiction and to the recipient of the citation.

500.6 DISPOSITION OF TRAFFIC CITATIONS

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The court and file copies of all traffic citations issued by members of this bureau shall be forwarded to the employee's immediate supervisor for review. The citation copies shall then be provided to a BOI Legal Tech for filing.

Upon separation from employment with this bureau, all employees issued traffic citation books shall return any unused citations to the administrative division.

500.7 JUVENILE CITATIONS

Completion of traffic citation forms for juveniles may vary slightly from the procedure for adults. The juvenile’s age, place of residency, and the type of offense should be considered before issuing the juvenile a citation.

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Chapter 6 - Investigation Operations

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Investigation and Prosecution

600.1 PURPOSE AND SCOPE

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

600.2 POLICY

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

600.3 INITIAL INVESTIGATION

600.3.1 INVESTIGATOR RESPONSIBILITIES

District Attorney Investigator responsible for an initial investigation shall complete no less than the following:

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

600.3.2 NON-SWORN MEMBER RESPONSIBILITIES

A non-sworn member assigned to any investigation may be responsible for all investigative steps, including attempts to locate, contact or interview a suspect. Anytime a face-to-face contact may result in an arrest, or the situation may pose a risk to the non sworn-member, the assistance of an investigator shall be requested.

600.4 CUSTODIAL INTERROGATION REQUIREMENTS

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Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

600.4.1 AUDIO/VIDEO RECORDINGS

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

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

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

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

600.4.2 MANDATORY RECORDING OF ADULTS

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

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

a. Recording is not feasible because of exigent circumstances that are later documented in a report.
b. The suspect refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
c. The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.
d. The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.
e. The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an investigator, the individual being interrogated or another individual. Such circumstances shall be documented in a report.
f. A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.
g. The questions are part of a routine processing or booking, and are not an interrogation.

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

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

600.5 USE OF CERTAIN DNA SAMPLES

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

600.6 DISCONTINUATION OF INVESTIGATIONS

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

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

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

600.7 COMPUTERS AND DIGITAL EVIDENCE

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar

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equipment will be seized, investigators should request that computer forensic examiners assist with seizing computers and related evidence. If a forensic examiner is unavailable, investigators should take reasonable steps to prepare for such seizure and use the resources that are available.

600.8 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

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

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

600.8.1 ACCESS RESTRICTIONS

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

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

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

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

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

600.8.2 INTERCEPTING ELECTRONIC COMMUNICATION

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

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600.9 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY

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

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

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

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Sexual Assault Investigations

601.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Senior and Disability Victimization policies.

601.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office that its members, when conducting follow-up or responding to incidents of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

Generally, members will conduct follow-up investigations after an initial investigation has been conducted by an allied law enforcement agency. It is the primary responsibility of the allied venue agency to conduct the initial investigation. In cases where a member is conducting an initial investigation, the following guidelines shall be followed.

601.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

a. Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.
b. Conduct follow-up interviews and investigation.
c. Present appropriate cases of alleged sexual assault to the prosecutor for review.
d. Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
e. Provide referrals to therapy services, victim advocates and support for the victim.

601.4 REPORTING

In all reported or suspected cases of sexual assault, a report should be written and all necessary follow-up conducted. This includes incidents in which the allegations appear unfounded or unsubstantiated.

601.5 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations,, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

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An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

601.5.1 VICTIM RIGHTS

Whenever there is an alleged sexual assault, the assigned investigator shall accomplish the following:

1. Prior to the commencement of the initial interview, advise the victim in writing of the right to have a victim advocate and a support person of the victim's choosing present at any interview or contact by law enforcement, about any other rights of a sexual assault victim pursuant to the sexual assault victim card described in Penal Code § 680.2, and the right to have a person of the same or opposite gender present in the room during any interview with a law enforcement official unless no such person is reasonably available (Penal Code § 679.04).
2. If the victim is transported to a hospital for any medical evidentiary or physical examination, the investigator shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2).
    1. The investigator shall not discourage a victim from receiving a medical evidentiary or physical examination (Penal Code § 679.04).
    2. A support person may be excluded from the examination by the investigator or the medical provider if the support person's presence would be detrimental to the purpose of the examination (Penal Code § 264.2).

601.5.2 VICTIM CONFIDENTIALITY

Investigators investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim’s parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting investigator shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim’s parent or guardian (Penal Code § 293).

Except as authorized by law, members of this bureau shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

601.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

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When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately (Penal Code § 680).

601.6.1 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT

The Administrative Division supervisor should make California standardized sexual assault forensic medical evidence (SAFE) kits available to members who may investigate sexual assault cases. Members investigating a sexual assault should use these SAFE kits when appropriate and follow related usage guidelines issued by the California Clinical Forensic Medical Training Center (Penal Code § 13823.14).

601.6.2 COLLECTION AND TESTING REQUIREMENTS

Members investigating a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). SAFE kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned investigator shall ensure that an information profile for the SAFE kit evidence has been created in the California Department of Justice (DOJ) SAFE-T database within 120 days of collection and should further ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (Penal Code § 680.3).

If the assigned investigator determines that a SAFE kit submitted to a private vendor laboratory for analysis has not been tested within 120 days after submission, the investigator shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned investigator shall continue to update the status every 120 days thereafter until the testing is complete, the statute of limitations has run, or the SAFE kit is exempt from the update requirement (Penal Code § 680.3).

If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned investigator shall notify the victim of such fact in writing no less than 60 days prior to the expiration of the 18-month period (Penal Code § 680).

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

601.6.3 COLLECTION OF DNA REFERENCE SAMPLES

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Reference samples of DNA collected directly from a victim of sexual assault, and reference samples of DNA collected from any individual that were voluntarily provided for the purpose of exclusion, shall be protected as provided in Penal Code § 679.12 (Penal Code § 680).

601.6.4 DNA TEST RESULTS

Consideration should be given regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

1. Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).
    1. Although such information may be communicated orally, the assigned investigator should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
    2. Absent a written request, no member of this bureau is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.
2. Sexual assault victims shall further have the following rights (Penal Code § 680):
    1. To be informed if a DNA profile of the assailant was obtained from the testing of the SAFE kit or other crime scene evidence from their case.
    2. To be informed if there is a confirmed match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.
    3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank or the federal Department of Justice or Federal Bureau of Investigation CODIS database of case evidence.
    4. To access the DOJ SAFE-T database portal consistent with Penal Code § 680.3(e) for information involving their own forensic kit and the status of the kit.
3. Provided that the sexual assault victim or the victim's authorized designee has kept the assigned investigator informed with regard to current address, telephone number, and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).
    1. Although such information may be communicated orally, the assigned investigator should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
    2. No investigator shall be required or expected to release any information which might impede or compromise any ongoing investigation.

601.6.5 NON-TESTING OF SAFE KITS

Sexual assault survivors 18 years or older may be undecided at the time of the medical examination whether to report the sexual assault to law enforcement and may request that any collected medical evidence not be tested. If such a

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request is made, the medical facility is responsible for the transfer of the SAFE kit to the San Joaquin County District Attorney's Office, if the bureau is the investigating agency. The bureau shall retain the SAFE kit until the sexual assault survivor requests testing (Penal Code § 680).

If the bureau receives a request for non-testing after the examination and the SAFE kit has not already been submitted to a crime lab, the SAFE kit shall be retained by the bureau. If the SAFE kit has been submitted to the crime lab, but DNA testing has not yet begun, the assigned investigator shall notify the crime lab of the request, and the untested SAFE kit shall be returned to the bureau and retained pursuant to bureau protocols (Penal Code § 680).

A sexual assault survivor who initially requested that their SAFE kit not be tested may later request testing, regardless of whether they decide to make a report to law enforcement. A Bureau of Investigation supervisor should ensure the SAFE kit is sent to the crime lab for testing (Penal Code § 680).

601.7 DISPOSITION OF CASES

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of a Bureau of Investigation supervisor.

Classification of a sexual assault case as unfounded requires a Bureau of Investigation supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

601.8 TRAINING

Subject to available resources, periodic training should be provided to:

1. Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:
    a. Interviewing sexual assault victims.
    b. Medical and legal aspects of sexual assault investigations.
    c. Serial crimes investigations.
    d. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
    e. Techniques for communicating with victims to minimize trauma.

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Informants

602.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use of informants.

602.1.1 DEFINITIONS

Definitions related to this policy include:

Informant - A person who covertly interacts with other individuals or suspects at the direction of, request of, or by agreement with, the San Joaquin County District Attorney's Office for law enforcement purposes. This also includes a person agreeing to supply information to the San Joaquin County District Attorney's Office for a benefit (e.g., a quid pro quo in the form of a reduced criminal penalty, money).

602.2 POLICY

The San Joaquin County District Attorney's Office recognizes the value of informants to law enforcement efforts and will strive to protect the integrity of the informant process. It is the policy of this bureau that all funds related to informant payments will be routinely audited and that payments to informants will be made according to the criteria outlined in this policy.

602.3 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

1. The identity of an informant acting in a confidential capacity shall not be withheld from the Chief Investigator, Administrative Lieutenant, or their authorized designees.
    1. Identities of informants acting in a confidential capacity shall otherwise be kept confidential.
2. Criminal activity by informants shall not be condoned.
3. Informants shall be told they are not acting as law enforcement, employees or agents of the bureau, and that they shall not represent themselves as such.
4. The relationship between bureau members and informants shall always be ethical and professional.
    1. Members shall not become intimately involved with an informant.
    2. Social contact shall be avoided unless it is necessary to conduct an official investigation, and only with prior approval of a bureau supervisor.
    3. Members shall neither solicit nor accept gratuities or engage in any private business transaction with an informant.
5. Investigators shall not meet with informants in a private place unless accompanied by at least one additional investigator or with prior approval of a bureau supervisor.
    1. Investigators may meet informants alone in an occupied public place, such as a restaurant.
6. When contacting informants for the purpose of making payments, [officers_deputies] shall arrange for the presence of another investigator.

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7. In all instances when [departmentoffice] funds are paid to informants, a voucher shall be completed in advance, itemizing the expenses.
8. 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.

602.4 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 bureau. The Administrative Lieutenant or the authorized designee shall be responsible for maintaining informant files. Access to the informant files shall be restricted to the Chief Investigator, Administrative Lieutenant, or their authorized designees.

The Administrative Lieutenant 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 Administrative Lieutenant is replaced, the files will be audited before the new supervisor takes over management of the files. The purpose of the audit is to ensure compliance with file content and updating provisions of this policy. The audit should be conducted by a supervisor who does not have normal access to the informant files.

602.4.1 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:

1. Name and aliases
2. Date of birth
3. Physical description: sex, race, height, weight, hair color, eye color, scars, tattoos or other distinguishing features
4. Photograph
5. Current home address and telephone numbers
6. Current employers, positions, addresses and telephone numbers
7. Vehicles owned and registration information
8. Places frequented
9. 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.
10. Name of the investigator initiating use of the informant
11. Signed informant agreement
12. Update on active or inactive status of informant

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602.5 INFORMANT PAYMENTS

No informant will be told in advance or given an exact amount or percentage for his/her service. The amount of funds to be paid to any informant will be evaluated against the following criteria:

- The extent of the informant's personal involvement in the case
- The significance, value or effect on crime
- The value of assets seized
- The quantity of the drugs or other contraband seized
- The informant's previous criminal activity
- The level of risk taken by the informant

The investigator will discuss the above factors with the Administrative Lieutenant and recommend the type and level of payment subject to approval by the Chief Investigator.

602.5.1 PAYMENT PROCESS

Approved payments to an informant should be in cash using the following process:

1. Payments of $500 and under may be paid in cash from a Investigation Bureau buy/expense fund.
    1. The Administrative Lieutenant shall sign the voucher for cash payouts from the buy/expense fund.
2. Payments exceeding $500 shall be made by issuance of a check, payable to the investigator who will be delivering the payment.
    1. The check shall list the case numbers related to and supporting the payment.
    2. A written statement of the informant's involvement in the case shall be placed in the informant's file.
    3. The statement shall be signed by the informant verifying the statement as a true summary of his/her actions in the case.
    4. Authorization signatures from the Chief Investigator and the Elected District Attorney are required for disbursement of the funds.
3. 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:
        1. Date
        2. Payment amount
        3. San Joaquin County District Attorney's Office case number
        4. A statement that the informant is receiving funds in payment for information voluntarily rendered.
    2. The cash transfer form shall be signed by the informant.
    3. The cash transfer form will be kept in the informant's file.

602.5.2 REPORTING OF PAYMENTS

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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.

602.5.3 AUDIT OF PAYMENTS

The Administrative Lieutenant or the authorized designee shall be responsible for compliance with any audit requirements associated with grant provisions and applicable state and federal law.

At least once every six months, the Chief 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.

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Eyewitness Identification

603.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this bureau employ eyewitness identification techniques (Penal Code § 859.7).

603.1.1 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.

603.2 POLICY

The San Joaquin County District Attorney's Office will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

603.3 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.

603.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Bureau of Investigation Criminal Division lieutenant 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.

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b. The name and identifying information of the witness.
c. The name of the person administering the identification procedure.
d. If applicable, the names of all of the individuals present during the identification procedure.
e. An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
f. An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
g. If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
h. An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
i. A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
j. A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.
k. Any other direction to meet the requirements of Penal Code § 859.7, including direction regarding blind or blinded administrations and filler selection.

The process and related forms should be reviewed at least annually and modified when necessary.

603.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

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).

603.6 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination show-up or one-on-one identification should not be used when independent probable cause exists to

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arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

1. Obtain a complete description of the suspect from the witness.
2. Assess whether a witness should be included in a field identification process by considering:
    1. The length of time the witness observed the suspect.
    2. The distance between the witness and the suspect.
    3. Whether the witness could view the suspect's face.
    4. The quality of the lighting when the suspect was observed by the witness.
    5. Whether there were distracting noises or activity during the observation.
    6. Any other circumstances affecting the witness's opportunity to observe the suspect.
    7. The length of time that has elapsed since the witness observed the suspect.
3. If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
4. When feasible, members should bring the witness to the location of the subject for the show-up, rather than bring the subject of the show-up to the witness.
5. The person who is the subject of the show-up should not be shown to the same witness more than once.
6. In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
7. The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.
8. If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

603.7 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.

603.7.1 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).

603.7.2 DOCUMENTATION RELATED TO BLIND ADMINISTRATION

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If a presentation of a lineup is not conducted using blind administration, the handling member shall document the reason (Penal Code § 859.7).

603.8 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness (Penal Code § 859.7). Techniques to achieve this include randomly numbering photographs, shuffling folders, or using a computer program to number 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.

603.8.1 OTHER SAFEGUARDS

Witnesses should be asked for suspect descriptions as close in time to the incident as possible and before conducting an eyewitness identification. No information concerning a suspect should be given prior to obtaining a statement from the witness describing how certain he/she is of the identification or non-identification. Members should not say anything to a witness that may validate or invalidate an eyewitness' identification. In photographic lineups, writings or information concerning any previous arrest of a suspect shall not be visible to the witness (Penal Code § 859.7).

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Brady Material Disclosure

604.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

604.1.1 DEFINITIONS

Definitions related to this policy include:

***Brady* information** - Information known or possessed by the San Joaquin County District Attorney's Office that is both favorable and material to the current prosecution or defense of a criminal defendant.

604.2 POLICY

The San Joaquin County District Attorney's Office will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the San Joaquin County District Attorney's Office will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The bureau will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

604.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Investigators must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an investigator learns of potentially incriminating or exculpatory information any time after submission of a case, the investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., confidential informant or 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.

604.4 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:

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. Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.

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c. The Custodian of Records shall accompany all relevant files during any in-camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.
d. 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.

604.5 INVESTIGATING BRADY ISSUES

If the bureau receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

604.6 TRAINING

Bureau members should receive periodic training on the requirements of this policy.

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Unmanned Aerial System

605.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS.

605.1.1 DEFINITIONS

Definitions related to this policy include:

Unmanned aerial system (UAS) - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

605.2 POLICY

Unmanned aerial systems may be utilized in the protection of lives and property when other means and resources are not available or are less effective. In addition, UAS systems are an advanced technique for capturing, recording, and documenting crime scenes that can later be used for evidentiary purposes. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

605.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or people during UAS operations.

605.4 PROGRAM COORDINATOR

The Chief Investigator will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations, and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current, and/or coordinating compliance with FAA Part 107 Remote Pilot Certificate, as appropriate for bureau operations.
- Ensuring that all authorized operators and required observers have completed all required FAA and bureau-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.

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- Developing uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents. Deployment of a UAS shall require written authorization of the Chief Investigator or the authorized designee, depending on the type of mission.
- Coordinating the completion of the FAA Emergency Operation Request Form in emergency situations, as applicable (e.g., natural disasters, search and rescue, emergency situations to safeguard human life).
- Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing an operational protocol governing the deployment and operation of a UAS including but not limited to safety oversight, use of visual observers, establishment of lost link procedures, and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates, and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief Investigator.
- Maintaining familiarity with FAA regulatory standards, state laws and regulations, and local ordinances regarding the operations of a UAS.

605.5 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

UAS operations should only be conducted consistent with FAA regulations.

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605.6 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.
- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

605.7 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule.

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Warrant Service

606.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this 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 investigators.

606.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to balance the safety needs of the public, the safety of bureau members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

606.3 SUPERVISOR RESPONSIBILITIES

A bureau supervisor (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved investigator to determine the risk level of the warrant service.

The supervisor 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.

606.4 SEARCH WARRANTS

Investigators should communicate with their supervisor, their need for preparing a search warrant application. If it is determined a search warrant is needed, 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 their appropriate supervisor (see the Operations Planning and Deconfliction Policy).

606.5 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 their supervisor for review and classification of risk (see the Operations Planning and Deconfliction Policy).

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If the warrant is classified as high risk, service will be coordinated with the law enforcement agency of jurisdiction for the use of SWAT and any other specialized units needed. 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.

606.6 WARRANT PREPARATION

District Attorney Investigators who prepare 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, are not left to unsubstantiated conclusions.
d. A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
e. Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
f. A specific description of the location to be searched, including photographs of the location, if reasonably available.
g. A sufficient description of the items to be seized.
h. Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Material Disclosure Policy).

606.7 HIGH-RISK WARRANT SERVICE

A bureau supervisor shall meet with the tactical commander of the agency of jurisdiction to coordinate the service of warrants that are categorized as high risk. The agency of jurisdiction's tactical commander shall have sole authority in determining the manner in which the warrant will be served.

At the conclusion of the tactical operation, when it is determined the location to be searched is safe and/or the suspect (s) are safely in custody, the involved suspect(s) are safely in custody, the involved investigators(s) will assume investigative authority over the incident.

606.8 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.

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606.9 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.

606.10 ACTIONS AFTER WARRANT SERVICE

The assigned investigator shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

606.11 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.

606.12 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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Operations Planning and Deconfliction

607.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations.

Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

607.1.1 DEFINITIONS

Definitions related to this policy include:

High-risk operations - Operations, including service of search and arrest warrants and 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.

607.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to properly plan and carry out high-risk operations, to include notifying Western States Information Network (WISN), in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

607.3 RISK ASSESSMENT

607.3.1 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.

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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).

607.3.2 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..

The supervisor will determine the level of risk and take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

607.3.3 HIGH-RISK OPERATIONS

If the supervisor, after consultation with the involved investigator, determines that the operation is high risk, the supervisor should:

1. Coordinate with the law enforcement agency of jurisdiction's tactical commander to determine what resources will be needed at the location.
2. Contact the appropriate bureau members or other agencies as warranted to begin preparation.
3. Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.
4. In cooperation with the law enforcement agency of jurisdiction's tactical commander, coordinate the actual operation.

607.4 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, time frame, 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.

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If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

607.5 OPERATIONS PLAN

The supervisor should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

1. Operation goals, objectives, and strategies.
2. 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)
    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
3. Information from the risk assessment form by attaching a completed copy in the operational plan.
    a. 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.
4. Participants and their roles.
    a. An adequate number of investigators should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.
    b. How all participants will be identified as law enforcement.
5. Whether deconfliction submissions are current and all involved individuals, groups, and locations have been deconflicted to the extent reasonably practicable.
6. Identification of all communications channels and call-signs.
7. Use of force issues.
8. Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).
9. Plans for detaining people who are not under arrest.

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10. 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.
11. Communications plan.
12. Responsibilities for writing, collecting, reviewing, and approving reports.

607.5.1 OPERATIONS PLAN RETENTION

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained in accordance with the established records retention schedule.

607.6 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.

1. The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.
2. 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.
3. The supervisor 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.
4. The briefing should include details of the communications plan.
    1. It is the responsibility of the supervisor to ensure that the law enforcement agency of jurisdiction's the Communications Center is notified of the time and location of the operation, and if necessary, 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.

607.7 SWAT PARTICIPATION

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If the bureau supervisor and the law enforcement agency of jurisdiction's tactical commander determine that SWAT participation is appropriate, they should work together to develop a written plan. The tactical commander 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 tactical commander shall transfer control of the scene to the handling bureau investigator.

607.8 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.

607.9 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.

607.10 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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Forensic Genetic Genealogy

608.1 PURPOSE AND SCOPE

This policy provides guidance for the use of forensic genetic genealogy (FGG) to generate investigative leads.

608.1.1 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.

608.2 POLICY

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The San Joaquin County District Attorney's Office's use of FGG will be in coordination with prosecutors, the Medical Examiner, and other appropriate resources only in qualifying cases after reasonable conventional investigative methods have been pursued. Members will take reasonable steps to maintain the integrity of the FGG process and safeguard the privacy rights of individuals whose DNA profiles are analyzed.

608.3 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.

608.4 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 Medical Examiner.

608.5 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.

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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 genetic genealogist to cease any further analysis and to return all evidence, data, and materials to the bureau.

608.6 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.

608.7 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.

608.8 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.

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Once the identity of a suspect or the identity of unidentified human remains has been confirmed through conventional DNA testing, the lead investigator should:

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 Medical Examiner for an amendment to a certificate of death.

608.9 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.

608.10 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 investigative assistance, 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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Court Security

609.1 PURPOSE AND SCOPE

This policy provides guidelines for providing security to District Attorney's Office personnel, victims, and witnesses during court proceedings. This policy outlines responsibilities for Investigators and Supervisors in coordinating and conducting court security operations in collaboration with the San Joaquin County Sheriff's Office Courthouse Security Unit. This policy applies to all District Attorney Investigators assigned or requested to provide court-related security.

609.2 DEFINITIONS

Victim – A person named in the criminal complaint who is required to attend court proceedings to provide testimony.

Witness – A person identified as having information relevant to a criminal case who is required to attend court proceedings to provide testimony.

District Attorney Personnel – Any employee of the District Attorney's Office participating in work-related cases or duties in or around the courthouse.

Validated Threat – A validated threat is a credible indication or statement that someone intends to inflict harm, which has been assessed and confirmed as serious enough to warrant concern for an individual's safety. This can include explicit threats of violence or implied threats that create a reasonable fear of harm. Examples include:

- Family members of the defendant verbally make threats of violence to a victim, witness, or District Attorney employees.
- The Defendant has a history of violence, and the current case shows specific indications a continued threat exists, i.e. jail call discussions involving a perceived threat.
- A new case for threatening a witness or victim.

Sheriff's Office Courthouse Security – Personnel responsible for providing close protection for judicial officers, employees, and visitors as directed by the Presiding Judge; providing escort and security outside the courthouse as directed; providing escort and security for incarcerated persons transported for court; and responding to calls for service within and outside the courthouse.

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609.3 POLICY

It is the policy of the District Attorney's Office to ensure the safety and security of its personnel, victims, and witnesses participating in court proceedings. District Attorney Investigators shall provide security in coordination with the Sheriff's Office Courthouse Security Team when a validated threat exists or when directed by supervisory personnel.

609.4 INVESTIGATOR COURT SECURITY RESPONSIBILITIES

District Attorney personnel requesting court security will submit their request through the case management system, where the information will be reviewed and evaluated by the Protective Services Sergeant. Upon approval of the request, the Protectives Services Unit Sergeant will assign the task to an Investigator for completion. Investigators assigned to provide court security are responsible for the following:

A. Provide close protection for victims, witnesses, and District Attorney personnel while entering, within, and departing the courthouse when there is a validated threat
B. Coordinate and communicate with Sheriff's Office Courthouse Security Team to ensure seamless security coverage.
C. Communicate timely and relevant information regarding individuals requiring escort or security.
D. Maintain a professional demeanor and operate within the scope of authority while in the courthouse or adjacent areas.

609.5 OFFICER SAFETY

The safety of all involved parties—including investigators, victims, witnesses, court personnel, and the public—is of paramount concern. Investigators shall continuously monitor and evaluate evolving security conditions to ensure an appropriate and effective response. Officer safety considerations shall guide all decisions related to positioning, movement, and engagement during court security operations.

609.6 CRIMINAL INVESTIGATIONS

Whenever possible, criminal investigations should remain separate from assigned court security details to avoid conflicts of responsibility. Investigators shall notify supervisory personnel if a conflict arises between investigative and security duties.

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609.7 SUPERVISOR RESPONSIBILITIES

Bureau supervisors receiving a request for court security will be responsible for the following:

A. Reviewing all security requests to verify the existence of a validated threat or credible security concern.
B. Ensure that assigned duties do not duplicate or replace those designated for courthouse security personnel.
C. Maintain documentation of the security request, assignment, and operational outcomes as required by chain of command.
D. Coordinate with the Sheriff's Office Courthouse Security Supervisor as necessary.

609.8 REPORTING

Investigators shall promptly report any observed or suspected criminal activity occurring in or around the courthouse to the appropriate jurisdictional law enforcement authority. Reports shall be documented in accordance with department procedures.

609.9 TRAINING

All District Attorney Investigators shall complete annual training designed to ensure consistent, standardized, and effective security operations. Training should include:

- Threat assessment and recognition.
- Coordination with courthouse security.
- Escort and protection techniques.
- Officer safety and situational awareness.
- Communication protocols.

609.10 POLICY REVIEW

This policy shall be reviewed annually by the Protective Services Unit Division Lieutenant or designee to ensure this policy is in compliance with best practices and operational needs.

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Chapter 7 - Equipment

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Bureau Owned and Personal Property

700.1 PURPOSE AND SCOPE

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

700.2 CARE OF BUREAU PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of [departmentoffice] property assigned or entrusted to them. An employee’s intentional or negligent abuse or misuse of [departmentoffice] 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 [departmentoffice] issued property or equipment assigned for their use.
b. The use of damaged or unserviceable [departmentoffice] property should be discontinued as soon as practical and replaced with comparable [departmentoffice] property as soon as available and following notice to a supervisor.
c. Except when otherwise directed by competent authority or required by exigent circumstances, [departmentoffice] 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. [DepartmentOffice] property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
e. In the event that any [departmentoffice] property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property are made by completing a memo to the immediate supervisor of the employee requesting reimbursement. The employee shall include the value of the damaged property, provide any receipts possessed, estimates of the replacement cost, and information on age and condition of the damaged property. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the Assistant 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 and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the [agencyHead] who will then forward the claim to the Finance Department.

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

700.3.1 REPORTING REQUIREMENT

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

When necessary, a report should be made to the local law enforcement agency where the property was lost or damaged. A written memo shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

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

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

700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to real or personal property belonging to the county, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written memo before going off duty or as otherwise directed by the supervisor. In some cases the local law enforcement agency of jurisdiction may have to complete a damaged property report.

These written reports shall promptly be forwarded to the Assistant Chief Investigator.

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Personal Communication Devices- PCD

701.1 PURPOSE AND SCOPE

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

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

701.2 POLICY

The San Joaquin County District Attorney's Office allows members to utilize bureau-issued PCDs, subject to certain limitations. Any issued PCD used while on- or off-duty for business-related purposes, or reasonably associated with work-related misconduct, will be subject to monitoring and inspection consistent with applicable law and this policy.

Additionally, the use of a PCD either on-duty or after duty hours for business-related purposes, or reasonably associated with work-related misconduct, may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

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

701.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received, or reviewed on any PCD issued by the bureau and shall have no expectation of privacy in their location should the device be equipped with location-detection capabilities. This includes records of all keystrokes or web-browsing history made on the PCD. 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 PCDs or networks (see the Information Technology Use Policy for additional guidance).

Members have no expectation of privacy regarding any communications while using a personally owned PCD for bureau-related business or when the use reasonably implicates work-related misconduct.

701.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

No member is authorized to be the sole possessor of a bureau-issued PCD. Bureau-issued PCDs can be retrieved, reassigned, accessed or used by any member as directed by a supervisor without notice. Member use of a bureau-issued PCD and use of a personal PCD at work or for work-related business constitutes specific consent for access

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for bureau purposes. Prior to conducting an administrative search of a PCD, supervisors should consult legal counsel to ensure access is consistent with CalECPA (Penal Code § 1546; Penal Code § 1546.1).

701.4 BUREAU-ISSUED PCD

Depending on a member's assignment and the needs of the position, the bureau may, at its discretion, issue or fund a PCD for the member's use to facilitate on-duty performance. bureau-issued or funded PCDs may not be used for personal business either on- or off-duty unless authorized by the Chief Investigator or the authorized designee. Such devices and the associated telephone number, if any, shall remain the sole property of the bureau and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

701.5 PERSONALLY OWNED PCD

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

1. Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
2. The bureau accepts no responsibility for loss of or damage to a personally owned PCD.
3. The PCD and any associated services shall be purchased, used, and maintained solely at the member's expense.
4. The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications) or as otherwise authorized by bureau procedures.

701.6 USE OF PCD

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

a. Pictures, audio or video recordings or copies of any such picture or recording directly related to official business shall not be released to any third party through any means without the express authorization of the Chief of Investigations or the authorized designee.
b. Using PCDs to harass, threaten, coerce, or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

701.7 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

1. Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
2. Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
    1. An investigation into improper conduct should be promptly initiated when circumstances warrant.

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2. Before conducting any administrative search of a member’s personally owned device, supervisors should consult with the Chief Investigator or the authorized designee.

701.8 OFFICIAL USE

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted.

701.9 USE WHILE DRIVING

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Investigators operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Members who are operating bureau vehicles that are not authorized emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use. In an emergency, a wireless phone may be used to place an emergency call to the bureau or other emergency services agency (Vehicle Code § 23123; Vehicle Code § 23123.5). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

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Vehicle Use

702.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure bureau vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of bureau vehicles and shall not be construed to create or imply any contractual obligation by the County of San Joaquin to provide assigned take-home vehicles.

Additional guidelines for member responsibilities when transporting persons in custody may be found in the Transporting Persons in Custody Policy.

702.2 POLICY

The San Joaquin County District Attorney's Office provides vehicles for bureau-related business and may assign vehicles based on a determination of operational efficiency, economic impact to the bureau, requirements for tactical deployments, and other considerations.

702.3 ASSIGNED VEHICLES

Bureau vehicles may be assigned to individual members at the discretion of the Chief Investigator. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time.

702.3.1 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.

702.3.2 TAKE HOME VEHICLES

All members who take a Bureau vehicle home will adhere to the following Criteria:

1. Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports, unless otherwise stated in this policy or special circumstances exist and the Chief Investigator or a lieutenant gives authorization.
2. Vehicles will not be used when off-duty except:
    1. When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or traveling to or from a work-related activity or function.
    2. When the member has received permission from the Chief Investigator or lieutenants.
    3. When the vehicle is being used by members who are in on-call status or administrative positions.
    4. When the vehicle is being used by on-call investigators.
3. While operating the vehicle, authorized members will carry and have accessible their duty firearms and be prepared to perform any function they would be expected to perform while on-duty.

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4. Unattended vehicles are to be locked and secured at all times.
    1. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, equipment charging).
    2. All weapons shall be secured while the vehicle is unattended.
    3. All bureau identification, portable radios and equipment should be secured.
5. Vehicles are to be parked off-street at the member's residence unless prior arrangements have been made with the Chief Investigator or the authorized designee. If the vehicle is not secured inside a locked garage, all firearms, portable communication devices and confidential documents shall be removed and properly secured in the residence (see the Firearms Policy regarding safe storage of firearms at home).
6. Vehicles are to be secured at the member's residence or the appropriate bureau facility, at the discretion of the bureau when a member will be away (e.g., on vacation) for an extended period of time.
    1. If the vehicle remains at the residence of the member, the bureau shall have access to the vehicle.
    2. If the member is unable to provide access to the vehicle, it shall be parked at the bureau.
7. The member is responsible for the care and maintenance of the vehicle.

702.3.3 ON CALL PERSONNEL

Investigators who are designated as on-call may use their assigned department vehicle during off-duty hours for the sole purpose of ensuring a timely response to incidents or emergencies. Off-duty vehicle use is subject to the following conditions:

1. The Investigator must remain within a reasonable response time and geographic distance, as determined by their supervisor or division lieutenant.
2. The Investigator shall not consume any alcohol or impairing substance while in possession of the vehicle, regardless of call status.
3. All department-issued equipment must remain in the vehicle, and the employee must be prepared to respond immediately if called.

702.3.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the San Joaquin County District Attorney's Office or while off-duty, an investigator shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Investigators may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

702.3.5 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

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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. The bureau shall be notified of problems with the vehicle and approve any major repairs before they are performed.
d. All weapons shall be removed from any vehicle left for maintenance.

702.4 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 Administrative Lieutenant.

702.5 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating bureau vehicles on a toll road shall adhere to the following:

a. Members operating bureau vehicles 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. Members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the Administrative lieutenant within five working days explaining the circumstances.

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Military Equipment

703.1 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).

703.1.1 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.
- Area denial electroshock devices, microwave weapons, water cannons, long-range acoustic devices (LRADs), acoustic hailing devices, and sound cannons.
- 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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703.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office that members of this bureau comply with the provisions of Government Code § 7071 with respect to military equipment.

703.3 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 San Joaquin County District Attorney's Office (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.

703.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying equipment for the bureau:

UAS: DJI Enterprise, DJI Matrice 4T

703.5 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):

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.

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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.

703.6 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.

703.7 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.

703.8 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 8 - Support Services

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Property and Evidence

800.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and identifies those persons authorized to remove and /or destroy property.

800.1.1 DEFINITIONS

Definitions related to this policy include:

Property - All articles placed in secure storage within the [departmentoffice], including the following:

- Evidence - Items taken or recovered in the course of an investigation that may be used in the prosecution of a case, including photographs and latent fingerprints.
- Found property - Items found by members of the [departmentoffice] or the public that have no apparent evidentiary value and where the owner cannot be readily identified or contacted.
- Safekeeping - Items received by the [departmentoffice] for safekeeping, such as a firearm, the personal property of an arrestee that was not taken as evidence, and items taken for safekeeping under authority of law.

800.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to process and store all property in a manner that will protect it from loss, damage, or contamination, while maintaining documentation that tracks the chain of custody, the location of property, and its disposition.

800.3 PROPERTY HANDLING

Any member who first comes into possession of any property shall retain such property in their 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.

Whenever property is taken or received from an individual, a property receipt form will be completed. The receipt shall describe the property and contain a notice on how to retrieve the property, as applicable, from the [departmentoffice]. A copy of the property receipt form shall be given to the individual from whom the property was taken or received.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

800.3.1 PROPERTY BOOKING PROCEDURE

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All property must be booked prior to the member going off-duty unless otherwise approved by a supervisor. Members booking property shall observe the following guidelines:

a. Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
b. Mark each item of evidence with the booking member's initials and the date booked using the appropriate method so as not to deface or damage the value of the property.
c. Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
d. Place the case number in the upper right-hand corner of the bag.
e. The original property form shall be submitted with the case report. A copy shall be placed with the property in the temporary property locker or with the property if property is stored somewhere other than a property locker.
f. When the property is too large to be placed in a locker, a lieutenant may authorize the use of other secure storage areas. The location of the property shall be noted on the property form.

800.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs should not be booked into the evidence room. All narcotics and dangerous drugs should be turned over to the venue agency where the narcotics or dangerous drugs were located.

800.3.3 EXPLOSIVES

Investigators who encounter a suspected explosive device shall promptly notify their immediate supervisor or the lieutenant. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives, fireworks and flammable materials will not be retained in the bureau facility. All such items shall be referred to the venue agency where the items were located.

800.3.4 FIREARMS

Firearm(s) should not be booked or stored in the bureau evidence room. All firearms and ammunition should be turned over to the venue agency where the firearms and ammunition were located.

800.3.5 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

a. All cash shall be counted in the presence of another investigator and the envelope initialed by the booking investigator and the supervisor. The lieutenant shall be contacted for cash in excess of $1,000 for special handling procedures.

County property, unless connected to a known criminal case, should be released directly to the appropriate county department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

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800.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

a. Narcotics and dangerous drugs
b. Firearms (ensure they are unloaded and booked separately from ammunition)
c. Property with more than one known owner
d. Paraphernalia as described in Health and Safety Code § 11364
e. Contraband

800.4.1 PACKAGING CONTAINER

Members shall package all property, except narcotics and dangerous drugs, in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

800.5 RECORDING OF PROPERTY

The investigative assistant receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property control card.

A property number shall be obtained for each item or group of items. This number shall be recorded on the property tag and the property control card.

Any changes in the location of property held by the San Joaquin County District Attorney's Office shall be noted in the property logbook.

800.6 PROPERTY CONTROL

Each time the investigative assistant receives property or releases property to another person, he/she shall enter this information on the property control card. Investigators desiring property for court shall contact the investigative assistant at least one day prior to the court day.

800.6.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, appropriate data entry on the evidence shall be completed to maintain the chain of evidence.

800.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting member will check the evidence out of property, indicating the date, time and the request for laboratory analysis.

The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the investigator will record the delivery time on both copies and indicate the locker in which the item was placed or

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the member to whom it was delivered. The original copy of the lab form will remain with the evidence and the copy will be returned to the investigative assistant filing with the case.

800.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to [officers_deputies] for investigative purposes, or for court, shall be noted, stating the date, time, and to whom released.

The [property_officer] shall obtain the signature of the person to whom property is released and the reason for release. Any member receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded, indicating date, time, and the person who returned the property.

800.6.4 AUTHORITY TO RELEASE PROPERTY

The bureau shall authorize the disposition or release of all evidence and property coming into the care and custody of the bureau.

800.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an official request, listing the name and address of the person to whom the property is to be released. The release authorization shall be approved by the authorizing supervisor or investigator and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

An investigative assistant shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

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The Administrative Division Supervisor or designee should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

The bureau is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

800.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the bureau, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the bureau may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

800.6.7 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION

The bureau shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

800.6.8 RELEASE OF FIREARMS IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm or ammunition, the investigative assistant shall return the weapon or ammunition to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met, unless the firearm or ammunition is determined to be stolen, evidence in a criminal investigation, another successive order has been issued against the individual, or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 29825.5; Penal Code § 33855).

800.6.9 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order, verification that the person is not otherwise legally prohibited from possessing a firearm, and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18108; Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, they are entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

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If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the San Joaquin County District Attorney's Office determines the person to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

800.6.10 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms, other deadly weapons, or ammunition confiscated or relinquished from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

a. If a petition for a hearing regarding the return of a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) that conforms to the provisions of Penal Code § 33865.
b. If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the firearm or weapon is not retained as evidence, the bureau shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that conforms to the provisions of Penal Code § 33865.
c. Unless the person contacts the bureau to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed, or retained as provided in Welfare and Institutions Code § 8102.

800.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The disposition of all property shall be appropriately documented.

The investigative assistant shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

800.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 25700; Penal Code § 26110; Penal Code § 26395; Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)

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- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

800.7.2 DESTRUCTION OF FIREARMS AND OTHER WEAPONS

The Administrative Division supervisor or the authorized designee shall develop and maintain guidelines and procedures relating to the destruction of firearms and other weapons that includes but is not limited to the following (Penal Code § 18005):

a. Identification of firearms and other weapons that need to be destroyed
b. Maintenance of records of firearms and other weapons that need to be destroyed, including entry into the Automated Firearms System, as applicable, and records of the destruction and disposal of those firearms and other weapons
c. Identification of any law enforcement agency that the bureau contracts with or has an agreement with related to the storage or destruction of firearms or other weapons that outlines the responsibilities of this bureau and the other agency
    1. If the bureau contracts with a third-party for destruction of firearms or other weapons, the contract must explicitly prohibit the sale of any firearm or weapon or any part or attachment to the firearm or weapon.

The Administrative Division supervisor or the authorized designee should ensure guidelines and procedures relating to the destruction of firearms and other weapons are posted on the San Joaquin County District Attorney's Office website (Penal Code § 18005).

800.7.3 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the bureau shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

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Any individual item with a value of less than $15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this bureau to fund official law enforcement operations. Money representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

800.7.4 RETENTION OF BIOLOGICAL EVIDENCE

The Administrative Division Supervisor shall ensure that no biological evidence held by the bureau is destroyed without adequate notification to the following persons, when applicable:

a. The defendant
b. The defendant’s attorney
c. The appropriate prosecutor and Attorney General
d. Any sexual assault victim
e. The Criminal Investigations Division supervisor

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Administrative Division Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the bureau within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Criminal Investigations Division supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief Investigator and the head of the applicable prosecutor’s office.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Criminal Investigations Division supervisor should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

800.8 INSPECTIONS OF THE EVIDENCE ROOM

a. On a annual basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
b. Unannounced inspections of evidence storage areas should be conducted annually as directed by the Chief Investigator.

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c. An annual audit of evidence held by the bureau shall be conducted by a lieutenant (as appointed by the Chief Investigator) not routinely or directly connected with evidence control.
d. Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence /property should be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

800.9 PROPERTY BUREAU SECURITY

The Administrative Division shall maintain secure storage and control of all property in the custody of this bureau. An investigative assistant shall be appointed by and will be directly responsible to the Criminal Investigations Lieutenant or the authorized designee.

The investigative assistant is responsible for the security of the Administrative Division and shall implement enhanced security measures to safeguard high-risk and valuable items (e.g., firearms, narcotics, money, jewelry).

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Records

801.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the San Joaquin County District Attorney's Office records. The policy addresses bureau file access and internal requests for case reports.

801.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to maintain bureau records securely, professionally, and efficiently. Records are available via the Administrative Division.

801.3 FILE ACCESS AND SECURITY

The security of files must be a high priority and shall be maintained as mandated by state or federal law. All case reports including but not limited to initial, supplemental, follow-up, evidence, and any other reports related to a bureau case, including criminal history records, and publicly accessible logs, shall be maintained in a secure area within the Bureau, accessible only by authorized members.

801.4 CONFIDENTIALITY

Members may have access to information that may be confidential or sensitive in nature. Members shall not access, view, or distribute, or allow anyone else to access, view, or distribute any record, file, or report, whether in hard copy or electronic file format, or any other confidential, protected, or sensitive information except in accordance with the Records Maintenance and Release and Protected Information policies.

801.5 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by investigators of the San Joaquin County District Attorney's Office and no accusatory pleading has been filed, the person arrested may petition the bureau to destroy the related arrest records. Petitions should be forwarded to the Administration Supervisor. The Administration Supervisor should promptly contact the prosecuting attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Administration Supervisor should forward the petition to the Assistant Chief Investigator and the County Counsel for review. After such review and consultation with the County Counsel, the Assistant Chief Investigator and the Administration Supervisor shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Administration Supervisor shall ensure that the arrest record and petition are sealed for later destruction, and the required notifications are made to the California DOJ and other law enforcement agencies (Penal Code § 851.8).

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The Administration Supervisor should respond to a petition with the bureau's decision within 45 days of receipt. Responses should include only the decision of the bureau, not an explanation of the analysis leading to the decision.

801.6 ARREST WITHOUT FILING OF ACCUSATORY PLEADING

The Administrative Lieutenant should ensure a process is in place for when an individual is arrested and released and no accusatory pleading is filed so that the following occurs (Penal Code § 849.5; Penal Code § 851.6):

a. The individual is issued a certificate describing the action as a detention.
b. All references to an arrest are deleted from the arrest records of the bureau and the record reflects only a detention.
c. The California DOJ is notified.

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Records Maintenance and Release

802.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of bureau records. Protected information is separately covered in the Protected Information Policy.

802.2 POLICY

The San Joaquin County District Attorney's Office is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 7920.000 et seq.).

802.3 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any bureau member who receives a request for any record shall route the request to their immediate supervisor. All requests for public records will be forwarded to the Assistant District Attorney via the Assistant Chief Investigator.

802.3.1 REQUESTS FOR RECORDS

Any member of the public, including the media and elected officials, may access unrestricted records of this bureau, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 7922.530). The Assistant District Attorney is designated to respond to all public records requests.

The processing of requests for any record is subject to the following (Government Code § 7922.530; Government Code § 7922.535):

1. The bureau is not required to create records that do not exist.
2. Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain bureau records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 7923.655).
3. Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized. If an extension is authorized, the bureau shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.
    1. When the request does not reasonably describe the records sought, the requester shall be assisted in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for

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denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 7922.600).

2. If the record requested is available on the bureau website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.

4. Upon request, a record shall be provided in an electronic format utilized by the bureau. Records shall not be provided only in electronic format unless specifically requested (Government Code § 7922.570; Government Code § 7922.580).
5. When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
    1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the bureau-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
6. If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure. The written response shall also include the names, titles, or positions of each person responsible for the denial (Government Code § 7922.000; Government Code § 7922.540).

802.4 RELEASE RESTRICTIONS

Examples of release restrictions include:

a. Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any bureau record, including traffic collision reports, are restricted except as authorized by the bureau, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
b. Social Security numbers (Government Code § 7922.200).
c. Personnel records, medical records, and similar records that would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 7927.700; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).
    1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.
    2. The identity of any investigator subject to any criminal or administrative investigation shall not be released without the consent of the involved investigator, prior approval of the Chief Investigator, or as required by law.
d. Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses

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(e.g., sex crimes or human trafficking (Penal Code § 293)). Addresses and telephone numbers of a victim or a witness shall not be disclosed to any arrested person or to any person who may be a defendant in a criminal action unless it is required by law (Government Code § 7923.615; Penal Code § 841.5).

1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, a copy of any accompanying or related photographs of the victim's injuries, property damage, or any other photographs that are noted in the incident report, and a copy of 9-1-1 recordings, if any, pursuant to the requirements and time frames of Family Code § 6228.
2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).

e. Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 7923.750.

f. Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating investigators (Evidence Code § 1041; Government Code § 7923.605).

1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 7923.605.

g. Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.

1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the Assistant District Attorney or their designee, the County Counsel, or the courts pursuant to Penal Code § 1054.5.

h. Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).

i. Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure § 130).

j. Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 7923.800).

k. Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.

l. Any record created exclusively in anticipation of potential litigation involving this bureau (Government Code § 7927.200).

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m. Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 7927.205).
n. Records relating to the security of the bureau's electronic technology systems (Government Code § 7929.210).
o. A record of a complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(9)).
p. Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 7927.705).
q. Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).

802.5 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 7923.625).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an investigator, or depicts an incident in which the use of force by an investigator against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 7923.625).

The Assistant District Attorney should work as appropriate with the Chief Investigator or the Internal Affairs supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

802.5.1 DELAY OF RELEASE

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

1. Disclosure may be delayed up to 45 days from the date the bureau knew or reasonably should have known about the incident.
2. Delay of disclosure may continue after the initial 45 days and up to one year if the bureau demonstrates that disclosure would substantially interfere with the investigation.
3. Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 7923.625).

802.5.2 NOTICE OF DELAY OF RELEASE

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When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 7923.625):

a. During the initial 45 days, the requester shall be provided with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.

2. When delay is continued after the initial 45 days, the requester shall promptly be provided with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief Investigator in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

802.5.3 REDACTION

If the Assistant District Attorney, in consultation with the Chief Investigator or the authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the bureau should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 7923.625).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the requester shall be provided in writing the specific basis for the expectation of privacy and the public interest served (Government Code § 7923.625).

802.5.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE

If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the bureau may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 7923.625):

a. The person in the recording whose privacy is to be protected, or the person's authorized representative.
b. If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.
c. If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the bureau determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 7923.625).

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The bureau may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 7923.625).

802.6 RELEASED RECORDS TO BE MARKED

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the bureau name and to whom the record was released.

Each audio/video recording released should include the bureau name and to whom the record was released.

802.7 SEALED RECORD ORDERS

Sealed record orders received by the bureau shall be reviewed for appropriate action by the Assistant District Attorney or their designee and shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).

When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Records Manager shall ensure that the required notations on local summary criminal history information and police investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

802.7.1 SEALING JUVENILE RECORDS

Upon receiving notice from a probation department to seal a citation, juvenile arrest records, or other related records pursuant to Welfare and Institutions Code § 786.5, the Records Manager should ensure that the records are sealed within 60 days of that notice and that the probation department is notified once the records have been sealed (Welfare and Institutions Code § 786.5).

Upon receiving a list of juvenile arrest records that are eligible to be sealed from the California Department of Justice (DOJ), the Records Manager or the authorized designee shall review the records identified in the list and determine if the records are eligible to be sealed in accordance with Welfare and Institutions Code § 781.2. Within six months of receiving the list, the Records Manager or the authorized designee shall electronically report to the DOJ which records were sealed (Welfare and Institutions Code § 781.2).

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Protected Information

803.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the San Joaquin County District Attorney's Office. This policy addresses the protected information that is used in the day-to-day operation of the bureau and not the public records information covered in the Records Maintenance and Release Policy.

803.1.1 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the San Joaquin County District Attorney's Office and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

803.2 POLICY

Members of the San Joaquin County District Attorney's Office will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

803.3 RESPONSIBILITIES

The Chief Investigator shall select a member of the bureau to coordinate the use of protected information.

The responsibilities of this position include but are not limited to:

a. Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicles (DMV) records, and California Law Enforcement Telecommunications System (CLETS).
b. Developing, disseminating, and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy. See the San Joaquin County District Attorney's Office CJIS Access, Maintenance, and Security Policy for additional guidance.
c. Developing, disseminating, and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release, and security of protected information.
d. Developing procedures to ensure training and certification requirements are met.
e. Resolving specific questions that arise regarding authorized recipients of protected information.
f. Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

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803.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, San Joaquin County District Attorney's Office policy, or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution. See the CJIS Access, Maintenance, and Security Policy for additional guidance.

803.4.1 PENALTIES FOR MISUSE OF RECORDS

It is a misdemeanor to furnish, buy, receive or possess Department of Justice criminal history information without authorization by law (Penal Code § 11143).

Authorized persons or agencies violating state regulations regarding the security of Criminal Offender Record Information (CORI) maintained by the California Department of Justice may lose direct access to CORI (11 CCR 702).

803.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Administrative Lieutenant for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the bureau may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Administrative Division to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

803.5.1 TRANSMISSION GUIDELINES

Protected information, such as restricted Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should not be transmitted via unencrypted radio. When circumstances reasonably indicate that the immediate safety of investigators, other bureau members, or the public is at risk, only summary information may be transmitted.

In cases where the transmission of protected information, such as Personally Identifiable Information, is necessary to accomplish a legitimate law enforcement purpose, and utilization of an encrypted radio channel is infeasible, or bureau-issued cellular telephone should be utilized when practicable. If neither are available, unencrypted radio transmissions shall be subject to the following:

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- Elements of protected information should be broken up into multiple transmissions, to minimally separate an individual's combined last name and any identifying number associated with the individual, from either first name or first initial.
- Additional information regarding the individual, including date of birth, home address, or physical descriptors, should be relayed in separate transmissions.

Nothing in this policy is intended to prohibit broadcasting warrant information.

803.5.2 REVIEW OF CRIMINAL OFFENDER RECORD

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

Individuals shall be allowed to review their arrest or conviction record on file with the bureau after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

803.6 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

803.7 SECURITY OF PROTECTED INFORMATION

The Chief Investigator will select a member of the bureau to oversee the security of protected information.

The responsibilities of this position include but are not limited to (see the CJIS Access, Maintenance, and Security Policy for additional guidance):

a. Developing and maintaining security practices, procedures, and training.
b. Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
c. Establishing procedures to provide for the preparation, prevention, detection, analysis, and containment of security incidents, including computer attacks.
d. Tracking, documenting, and reporting all breach of security incidents to the Chief Investigator and appropriate authorities.

803.7.1 MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

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803.8 TRAINING

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

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Computers and Digital Evidence

804.1 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 in compliance with clearly established Fourth Amendment and search and seizure provisions.

804.2 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 sheet number, and item number.
f. Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.
g. 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.
    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.

804.2.1 BUSINESS OR NETWORKED COMPUTERS

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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.

804.2.2 FORENSIC EXAMINATION OF COMPUTERS

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

a. Copy of report(s) involving the computer, including the Evidence/Property sheet.

b. Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.

c. A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).

d. An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

804.3 SEIZING DIGITAL STORAGE MEDIA

Digital storage media including hard drives, floppy discs, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

a. If the media has a write-protection tab or switch, it should be activated.
b. Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation, request to copy the contents to an appropriate form of storage media via the administration lieutenant.
c. Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.
d. Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.
e. Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

804.4 SEIZING PCDS

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

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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.

804.5 DIGITAL EVIDENCE RECORDED BY OFFICERS

Investigators handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

804.5.1 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.

Only members of the Forensic Digital Evidence Team are authorized to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered. 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. If any enhancement is done to the copy of the original, it shall be noted in the corresponding report.

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CJIS Access, Maintenance, and Security

805.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the use, maintenance, and security of bureau systems that access, process, store, or transmit Criminal Justice Information.

805.1.1 DEFINITIONS

Definitions related to this policy include:

Criminal Justice Information (CJI) - Data provided by FBI Criminal Justice Information Services (CJIS) that is necessary for law enforcement agencies to perform their mission and enforce the laws (e.g., biometric, identity history, person, organization, case/incident history data).

Security incident - Any incident that compromises the security of CJI or systems that access, process, store, or transmit CJI. Examples include but are not limited to unauthorized use of legitimate code or credentials within bureau systems, email communications that contain malicious code, data breaches, signaling to external systems, and unauthorized exporting of information.

805.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to maintain the security, confidentiality, and integrity of its information systems that access, process, store, or transmit CJI by collaborating with appropriate state and federal agencies to implement the applicable established protocols.

805.3 CJIS COORDINATOR

The Chief Investigator shall appoint a CJIS coordinator, who shall be responsible for the San Joaquin County District Attorney's Office's adherence to FBI CJIS Security Policy requirements.

The CJIS coordinator shall establish procedures necessary to govern the bureau's use, maintenance, and security of systems that access CJI as described in this policy.

805.3.1 CJIS COORDINATOR RESPONSIBILITIES

The responsibilities of the CJIS coordinator include but are not limited to:

a. Coordinating with others, such as the information technology or legal departments, as appropriate, to maintain bureau compliance with FBI CJIS Security Policy requirements and the California Justice Information Services.
b. Managing member accounts with access to CJI, including:
    1. Creating, enabling, modifying, disabling, and removing member accounts in accordance with this policy and the FBI CJIS Security Policy.

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2. Configuring member accounts in accordance with federal and state requirements (e.g., limiting unsuccessful login attempts).
3. Reviewing member accounts for compliance with legal and policy requirements at least annually.

c. Overseeing the maintenance, repair, and replacement of CJI systems and system components in accordance with manufacturer or vendor specifications and/or bureau requirements, including:
    1. Maintaining a list of organizations and personnel approved by the Chief Investigator to perform maintenance on CJI systems.
    2. Approving, scheduling, documenting, and monitoring all maintenance and diagnostic activities, whether performed on-site, remotely, or off-site, and maintaining records.
    3. Verifying that non-escorted personnel performing maintenance on any CJI system or terminal possess the required access authorizations, and designating members who have the required access authorizations and technical competence to supervise the maintenance activities of personnel who do not possess the required access authorizations.
    4. Maintaining records for all system maintenance and diagnostic activities.
d. Monitoring bureau systems that have access to CJI to ensure compliance with applicable laws and this policy; developing processes to detect, identify, and correct flaws in software and firmware; and conducting security updates as necessary.
e. Providing for the security of hardware that includes provisions for the following:
    1. How hardware is to be brought into and taken out of bureau facilities
    2. Physical security of hardware within bureau facilities
    3. Physical security of areas containing network connections and transmission lines, including monitored access
f. Implementing and carrying out the bureau Incident Response Plan, including:
    1. Tracking and documenting all suspected or actual security incidents related to CJI in an appropriate manner.
    2. Directing annual testing of the bureau's information security incident response capabilities using tabletop or walk-through exercises, simulations, or other types of testing.
    3. Making the appropriate notifications outside of the bureau (see the Records Maintenance and Release Policy for additional guidance).
    4. Providing information on security incidents to any third-party software developers or vendors as appropriate.
g. Protecting digital and non-digital media that contain CJI, including physical security, transportation, destruction/sanitization, and documentation requirements.
h. Developing and updating bureau information security and privacy literacy training and incident response training as required by policy.
i. Maintaining audit records in accordance with the established records retention schedule, but in no event for less than one year.
j. Managing the development, documentation, and dissemination of procedures for the following:
    1. Awareness and training
    2. Incident response
    3. Audit and accountability

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4. Access control
5. Identification and authentication
6. Configuration management
7. Media protection
8. Physical and environmental protection
9. System and communications protection
10. System and information integrity
11. Maintenance
12. Security and privacy planning
13. Contingency planning
14. Risk assessment

k. Reviewing this policy and related procedures as required by the FBI CJIS Security Policy and proposing updates as needed to the Chief Investigator.

805.4 MEMBER RESPONSIBILITIES

All members of the bureau shall be committed to detecting information security incidents and making the appropriate notifications.

Any member who suspects that there may have been unauthorized access, disclosure, or other compromise of CJI shall report their suspicions in accordance with the Incident Response Plan within one hour of the discovery.

Personally owned devices or systems and publicly accessible systems shall not be used to access, process, store, or transmit CJI.

805.5 SUPERVISOR RESPONSIBILITIES

Supervisors shall notify the CJIS coordinator when the account access of a member they supervise needs to be modified, disabled, or removed for any reason, such as resignation, termination, or change of duties.

805.6 MEMBER ACCOUNTS

Bureau accounts used to access CJI shall only be created upon approval of the Chief Investigator or the authorized designee.

Member accounts shall be disabled within one week of any of the following:

a. The account has expired.
b. The account is no longer associated with a member.
c. The account is found to be in violation of this policy.
d. The account has been inactive for 90 calendar days.

If any threat to the confidentiality, integrity, or availability of CJI related to a specific member account is detected, the CJIS coordinator or designated member shall disable the account within 30 minutes of the discovery.

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805.6.1 ACCESS AUTHORIZATION

Access authorization for systems transmitting, receiving, using, or storing CJI shall be based on the principle of least privilege as follows:

a. Members shall only be granted access authorizations that are necessary to accomplish assigned bureau tasks.
b. Accounts with security privileges shall only be authorized for members with an operational need for the privileges. Privileged functions shall be logged as they are executed.
c. Non-privileged members shall not be allowed to execute privileged functions.

805.6.2 ACCOUNT REVIEW ACTIVITIES

At least annually, the CJIS coordinator shall review member accounts for compliance with policy and applicable laws. The CJIS coordinator shall validate account privileges and remove or reassign them as necessary to accurately reflect the bureau mission and law enforcement needs.

805.7 MEDIA PROTECTION

Access to media containing CJI shall be restricted to authorized members and stored within physically secured locations or controlled areas, in accordance with the FBI CJIS Security Policy.

Digital media (e.g., flash drives, external or removable hard disk drives, compact discs) containing CJI shall be encrypted. Personally owned digital media devices or digital media devices with no identifiable owner shall not be used on bureau systems that store, process, or transmit CJI.

Non-digital media (e.g., paper files, printed pages, microfilm) containing CJI should be enclosed in an opaque folder or container if they are to be transported outside of physically secure locations or controlled areas. Media containing CJI shall not be left unattended outside of a physically secure location.

Transportation and transfers of media containing CJI shall only be conducted by authorized members and shall be documented.

805.7.1 MEDIA DISPOSAL AND RELEASE

Digital media containing CJI shall be overwritten at least three times or degaussed (i.e., erased) prior to being disposed of, released from bureau control, or released for reuse. Inoperable digital media devices, such as hard drives or solid-state drives that cannot be accessed to overwrite the data, shall be physically destroyed. When non-digital media is no longer needed for investigative or security purposes, it shall be destroyed by crosscut shredding or incineration.

805.8 SYSTEM AND INFORMATION INTEGRITY

The integrity of bureau CJI systems shall be protected through the implementation of appropriate controls such as:

a. Flaw remediation.
b. System monitoring.

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c. Security alerts, advisories, and directives.
d. Software, firmware, and information integrity controls.
e. Spam protection.

805.9 INCIDENT RESPONSE PLAN

The San Joaquin County District Attorney's Office Information Systems Division is responsible for maintaining the CJIS Incident Response Plan Policy. See attachment for further.

DA CJIS Incident Response Policy.docx

805.10 SECURITY AWARENESS TRAINING

Members with physical or electronic access to CJI or CJI systems shall complete security awareness training appropriate to their assigned roles and responsibilities and shall certify their understanding by signing a formal Security Awareness Training Acknowledgement. Training shall include information security and privacy literacy training, security incident response training, and a review of this policy and related procedures.

Security awareness training shall be completed prior to accessing any CJI data or system and at least annually thereafter. Additional training shall be completed as required following any changes to CJI systems and for any member involved in a security incident within 30 days of the event.

Individual training records shall be maintained in accordance with the established records retention schedule, but in no event for less than three years.

The bureau's CJIS training shall be reviewed for any necessary updates or changes annually and following any security incident or change in a CJI system or the FBI CJIS Security Policy.

805.11 SANCTIONS

Failure to adhere to policies and procedures pertaining to CJI shall result in disciplinary action, up to and including termination. Misuse of or failure to secure CJI may also result in temporary or permanent restrictions in the use of CJI. Intentional misuse of CJI may also be prosecutable under applicable laws.

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Chapter 9 - Custody

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Custodial Searches

900.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants, or weapons into the San Joaquin County District Attorney's Office facility. Such items can pose a serious risk to the safety and security of bureau members, individuals in custody, contractors, and the public.

Guidance for custody searches when transporting a person in custody may be found in the Transporting Persons in Custody Policy.

Nothing in this policy is intended to prohibit the otherwise lawful collection of evidence from an individual in custody.

900.1.1 DEFINITIONS

Definitions related to this policy include:

Custody search - An in-custody search of an individual and of 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.

900.2 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

900.3 SEARCHES AT BUREAU FACILITIES

Custody searches shall be conducted on all individuals in custody, upon entry to the San Joaquin County District Attorney's Office facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

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Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

900.3.1 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this bureau, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another bureau member. The inventory should include the case number, date, time, member's San Joaquin County District Attorney's Office identification number and information regarding how and when the property may be released.

900.3.2 VERIFICATION OF MONEY

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The bureau member sealing it should place the member's initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

900.4 STRIP SEARCHES

No individual in temporary custody at any San Joaquin County District Attorney's Office facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

a. The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.
b. Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.
    1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.
c. Custody history (e.g., past possession of contraband while in custody, assaults on bureau members, escape attempts).

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d. The individual's actions or demeanor.
e. Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

900.4.1 STRIP SEARCH PROCEDURES

Strip searches at San Joaquin County District Attorney's Office facilities shall be conducted as follows (28 CFR 115.115; Penal Code § 4030):

a. Written authorization from a Bureau Lieutenant 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 Lieutenant.
    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.

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h. If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the Lieutenant shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made.

i. A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name, and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative.

900.4.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with Lieutenant 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 authorization does not need to be in writing.

900.5 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following (Penal Code § 4030):

a. No individual shall be subjected to a physical body cavity search without written approval of the 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.

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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.

900.6 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.

900.7 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).

900.8 TRAINING

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The Administrative Lieutenant shall ensure members have training that includes (28 CFR 115.115):

a. Conducting searches of cross-gender individuals.
b. Conducting searches of transgender and intersex individuals.
c. Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

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Transporting Persons in Custody

901.1 PURPOSE AND SCOPE

This policy provides guidelines for transporting persons who are in the custody of the San Joaquin County District Attorney's Office.

See the Handcuffing and Restraints Policy for additional guidance.

901.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to provide safe, secure, and humane transportation for all persons in custody.

901.3 BUREAU LIEUTENANT RESPONSIBILITIES

The BureauLieutenant should establish related procedures for:

- Safely transporting persons who have their legs restrained.
- Seating placement of persons being transported in vehicles with and without safety barriers.

901.4 INVESTIGATOR RESPONSIBILITIES

Persons in custody should be transported in a vehicle properly equipped to transport passengers. They should be appropriately restrained and positioned during transport.

Investigators transporting a person in custody should:

a. Search all areas of the vehicle accessible to a person in custody before and after each transport.
b. Immediately search persons in custody after arrest, when receiving the person from the custody of another investigator, and before transferring the person. Refer to the Custodial Searches Policy before conducting any search other than a field search.
    1. Whenever practicable, a search should be conducted by an investigator of the same gender as the person being searched. If an investigator of the same gender is not reasonably available, a witnessing investigator should be present during the search.
c. Provide Dispatch with any required notifications (e.g., start time, mileage, end time).
d. Properly secure all property.
e. Use audio/video equipment (when properly equipped) to observe and record any person in custody during transport (see the Mobile Audio/Video and Body-Worn Camera policies for additional guidance).
f. Make a reasonable effort to prevent inappropriate conversations between persons being transported (e.g., demeaning or insulting language) or conversations between a person being transported and someone outside the vehicle.

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g. Plan travel times and routes to avoid situations that might impede transportation (e.g., heavy traffic, unfavorable road conditions, extreme weather) when reasonably practicable.
h. Make a verbal welfare check with a person in custody at least every 10 minutes. Provide sufficient visual observation and audio communication during the transport of:
    1. Individuals in auxiliary restraints.
    2. Individuals in leg restraints.
    3. Individuals wearing a spit hood.
    4. Individuals who are a suspected suicide risk.
i. Verify that the vehicle's security devices (e.g., window and rear-door child-safety locks) are activated.
j. Assess uncooperative persons who cannot or will not sit upright for a medical condition (see the Medical Aid and Response Policy for additional guidance):
    1. If no medical condition exists, alternative transportation should be arranged (e.g., a special transport van).

901.5 TRANSPORT RESTRICTIONS

When transporting multiple persons, investigators:

a. Should not transport persons in custody together. Persons in custody should be transported individually when practicable, or within their own compartment of a multiple-compartment vehicle, unless supervisor approval is received based on unusual circumstances.
    1. Juveniles and adults shall not be transported together.
    2. Persons with known hostilities toward each other, such as mutual combatants or rival gang members, shall not be transported together.
    3. Persons of different genders should not be transported together.
b. If segregating individuals is not possible, transporting investigators should be alert to inappropriate physical or verbal contact and take appropriate action.

901.6 TRANSPORT VANS

District Attorney Investigator trained on the safety and restraint systems of a transport van should be present during the transport van's use for transporting a person in custody.

District Attorney Investigator should assist persons getting into and out of the transport van to avoid falls.

901.7 TRANSPORTING PERSONS IN CUSTODY WHO HAVE A DISABILITY

When transporting a person in custody who has a disability, a transporting investigator should request assistance as necessary to transport the person in a reasonable and safe manner. The transporting investigator should ensure that any special equipment (e.g., canes, wheelchairs, prosthetics) is transported to the person's destination in a way that does not threaten the safety or security of the person in custody or the investigator.

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Investigators transporting a person who has a disability should consult with the person in custody and use good judgment in determining what, if any, restraining devices may be appropriate based on the person's disability to ensure the security, safety, and dignity of all persons.

901.8 TRANSPORTING ILL OR INJURED PERSONS IN CUSTODY

Except in exceptional cases where alternatives are not reasonably available, investigators should not transport persons in custody who are unconscious, have serious injuries, or who may be seriously ill. EMS personnel should be called to handle such transportation.

Investigators shall notify a supervisor as soon as practicable when transporting a person in custody to a hospital.

District Attorney 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 Lieutenant.

Any person in custody suspected of having a communicable disease should be transported in compliance with the exposure control plan in the Communicable Diseases Policy.

See the Medical Aid and Response Policy for additional guidance on ill or injured persons in custody.

901.9 TRANSPORTING PREGNANT PERSONS IN CUSTODY

Persons in custody who are known to be pregnant should be restrained during transport in the least restrictive manner that is effective for officer safety. Leg restraints, 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 themself or others, or damage property.

Absent exceptional circumstances, persons in labor or delivery should not be transported by investigators. EMS personnel should be called to handle transportation.

901.10 MENTAL ILLNESS COMMITMENT TRANSPORTS

When transporting any individual for a mental illness commitment, the transporting investigator should request that the Communications Center notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual, and whether any special medical care is needed.

Should the person require transport in a medical transport vehicle, and the safety of any person, including the person in custody, requires the presence of an investigator during the transport, Lieutenant approval is required before transport commences.

See the Mental Illness Commitments Policy for additional guidance.

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901.11 INTERRUPTION OF TRANSPORT

Absent extraordinary circumstances, investigators should not interrupt a transport to provide emergency assistance without supervisory approval. Investigators encountering an emergency should notify Dispatch and request an appropriate response.

901.12 EXTENDED TRANSPORTS

During transports for extended durations, transporting investigators may be required to make necessary stops. With supervisory approval and due consideration for security risks and the in-custody person's health and well-being, these stops should be limited to fuel, meals, bathroom breaks, and other purposes reasonably necessary for the continuation of the transport.

901.13 PROHIBITIONS

When transporting a person in custody, investigators should not:

a. Use transport as a form of punishment or retaliation (e.g., intentionally rough rides, excessive heat or cold, obnoxiously loud music).
b. Handcuff a person to any part of a vehicle.
c. Leave the vehicle unattended with the person in custody in the vehicle.
d. Allow any person who is not in custody (e.g., friend, family member) to have contact with or be in close proximity to the person in custody.
e. Allow any food, drink, or other consumables to be given to the person in custody by anyone other than bureau personnel or receiving agency personnel.
f. Stop to conduct any personal activities.
g. Engage in a pursuit.

901.14 ESCAPES

In the event that a person in custody escapes while being transported, the transporting investigator should immediately advise the Communications Center and other units of the escape, provide a description of the escapee, notify the Lieutenant, and submit a written report as soon as practicable describing the circumstances of the escape and any recapture.

The Lieutenant should notify the Chief Investigator or the authorized designee upon learning of an escape.

If the escape occurs outside the jurisdiction of the San Joaquin County District Attorney's Office, the Lieutenant should notify the appropriate agency or agencies within the jurisdiction where the escape occurred.

901.15 DOCUMENTATION

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If a person is injured during transportation, investigators should document the injury in the appropriate report. Documentation should include the condition of the person prior to transportation and the known or suspected causes of the injury during transportation (e.g., hitting head, struggling with restraints, fighting with other persons in custody). Any visible or reported injuries should be photographed and included with the report.

901.16 NOTIFICATIONS

Investigators should notify a supervisor and any receiving facility of information regarding any circumstances the investigator reasonably believes would be potential safety concerns or medical risks to the person (e.g., uncooperative or violent, prolonged struggle, extreme agitation, medical conditions) that may have occurred prior to, or during, transportation.

901.17 TRAINING

The Administrative Lieutenant should provide periodic training on this policy and procedures related to transporting persons in custody, restraint systems, and restraint devices.

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Chapter 10 - Personnel

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Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the San Joaquin County District Attorney's Office and that are promulgated and maintained by the Department of Human Resources.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the San Joaquin County District Attorney's Office provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The 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.

1000.3 RECRUITMENT

The Administration Lieutenant should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates

The Administration Lieutenant shall avoid advertising, recruiting, and screening practices that tend to stereotype, focus on homogeneous applicant pools, or screen applicants in a discriminatory manner.

The 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.

1000.4 SELECTION PROCESS

The bureau shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the bureau 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).

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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. 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).
    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).
i. Relevant national and state decertification records, if available, including the National Decertification Index

1000.4.1 VETERAN’S PREFERENCE

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran’s preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

1000.5 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate’s unsuitability to perform duties relevant to the operation of the San Joaquin County District Attorney's Office (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

1000.5.1 INVESTIGATOR TRAINING

Background investigators shall complete POST-certified background investigation training prior to conducting investigations (11 CCR 1953; 11 CCR 1959).

1000.5.2 BACKGROUND INVESTIGATION UPDATE

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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 San Joaquin County District Attorney's Office, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

1000.5.3 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

1000.5.4 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).

1000.5.5 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 Administration Lieutenant should not require candidates to provide passwords, account information, or access to password-protected social media accounts.

The Administration 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.

Regardless of whether a third party is used, the Administration Lieutenant should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.5.6 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

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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).

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 AdministrationLieutenant 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).

1000.5.7 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 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.

1000.5.8 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.

1000.6 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment

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- Aggravating and mitigating factors
- Other relevant considerations

A candidate’s qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

1000.7 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; Penal Code § 13510.1; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the 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 Department of Human Resources should maintain and periodically review validated standards for all positions.

1000.7.1 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.):

1. Free of any felony convictions
2. Be legally authorized to work in the United States under federal law
3. At least 21 years of age except as provided by Government Code § 1031.4
4. Fingerprinted for local, state, and national fingerprint check (Government Code § 1030; Penal Code § 11105.002; Penal Code § 11105.05)
5. Good moral character as determined by a thorough background investigation (11 CCR 1953)
6. 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
7. 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)
8. 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)
9. 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)
10. POST certification that has not been revoked, denied, or voluntarily surrendered pursuant to Penal Code § 13510.8(f)

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11. 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.

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the [departmentoffice] (Penal Code § 13510(d)).

1000.8 PROBATIONARY PERIODS

The Administration Lieutenant should coordinate with the San Joaquin Department of Human Resources to identify positions subject to probationary periods and procedures for:

a. Appraising performance during probation.
b. Assessing the level of performance required to complete probation.
c. Extending probation.
d. Documenting successful or unsuccessful completion of probation.

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Evaluation of Employees

1001.1 PURPOSE AND SCOPE

The bureau's employee performance evaluation system is designed to record work performance for both the bureau and the employee, providing recognition for good work and developing a guide for improvement.

1001.2 POLICY

The San Joaquin County District Attorney's Office utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to promotion, reassignment, discipline, demotion, and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The bureau evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

1001.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Evaluation reports will be completed by each employee’s immediate supervisor. Other supervisors directly familiar with the employee’s performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn and professional staff supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period. Supervisors should document this discussion in the prescribed manner.

Assessment of an employee’s job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.

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1001.4 FULL TIME PROBATIONARY PERSONNEL

Professional Staff and sworn personnel are on probation for 12 months before being eligible for certification as permanent employees. An evaluation is completed on the fourth, seventh, and eleventh month for all full-time professional staff and sworn personnel during the probationary period.

1001.5 FULL-TIME PERMANENT STATUS PERSONNEL

Permanent employees are subject to three types of performance evaluations:

Regular - An Employee Performance Evaluation shall be completed once each year by the employee's immediate supervisor on the anniversary of the employee’s date of hire except for employees who have been promoted in which case an Employee Performance Evaluation shall be completed on the anniversary of the employee’s date of last promotion.

Transfer - If an employee is transferred from one assignment to another in the middle of an evaluation period and less than six months have transpired since the transfer, then an evaluation shall be completed by the current supervisor with input from the previous supervisor.

Special - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (action plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package.

1001.6 EVALUATION INTERVIEW

When the supervisor has completed the preliminary evaluation, arrangements shall be made for a private discussion of the evaluation with the employee. The supervisor should discuss the results of the just completed rating period and clarify any questions the employee may have. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions and training opportunities. The supervisor and employee will sign and date the evaluation.

1001.7 EVALUATION REVIEW

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the rater's supervisor lieutenant. The lieutenant shall review the evaluation for fairness, impartiality, uniformity, and consistency. The lieutenant shall evaluate the supervisor on the quality of ratings given.

1001.8 EVALUATION DISTRIBUTION

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The original performance evaluation shall be maintained in the employee's personnel file for the tenure of the employee's employment. A copy will be given to the employee and a copy will be forwarded to county human resources.

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Grievance Procedure

1002.1 PURPOSE AND SCOPE

It is the policy of this bureau that all grievances be handled quickly and fairly without discrimination against employees who file a grievance whether or not there is a basis for the grievance. Our bureau’s philosophy is to promote a free verbal communication between employees and supervisors.

1002.1.1 GRIEVANCE DEFINED

A grievance is any difference of opinion concerning terms or conditions of employment or the dispute involving the interpretation or application of any of the following documents by the person(s) affected:

- The employee bargaining agreement (Memorandum of Understanding)
- This Policy Manual
- County rules and regulations covering personnel practices or working conditions

Grievances may be brought by an affected employee or by a group representative.

Specifically, outside the category of grievance are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any bureau employee that, if true, would constitute a violation of bureau policy, federal, state, or local law as set forth in the Personnel Complaint Policy.

1002.2 PROCEDURE

Grievance procedures for members of the San Joaquin County District Attorney's Investigator's Association (SJCDAIA), Service Employees International Union (SEIU). Law Enforcement Management Association (LEMA) are covered within their respective MOU's and Management Resolutions with San Joaquin County. Those respective documents outline how to handle a grievance from an employee covered by the respective bargaining unit.

1002.3 EMPLOYEE REPRESENTATION

Employees are entitled to have representation during the grievance process. The representative may be selected by the employee from the appropriate employee bargaining group.

1002.4 POLICY

It is the policy of the San Joaquin County District Attorney's Office to provide a just and equitable system for the prompt handling of employee grievances without discrimination, coercion, restraint, or retaliation against any employee who submits or is otherwise involved in a grievance.

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Anti-Retaliation

1003.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

1003.2 POLICY

The San Joaquin County District Attorney's Office has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

1003.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

1003.3.1 RETALIATION PROHIBITED FOR REPORTING VIOLATIONS

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District Attorney Investigator shall not be retaliated against for reporting a suspected violation of a law or regulation of another investigator to a supervisor or other person in the bureau who has the authority to investigate the violation (Government Code § 7286(b)).

1003.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, command staff member, Chief Investigator or the CountyPersonnel Manager.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member’s identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

1003.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

a. Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.

b. Receiving all complaints in a fair and impartial manner.

c. Documenting the complaint and any steps taken to resolve the problem.

d. Acknowledging receipt of the complaint, notifying the Chief Investigator via the chain of command and explaining to the member how the complaint will be handled.

e. Taking appropriate and reasonable steps to mitigate any further violations of this policy.

f. Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.

g. Periodic follow-up with the complainant to ensure that retaliation is not continuing.

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h. Not interfering with or denying the right of a member to make any complaint.

i. Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

1003.6 COMMAND STAFF RESPONSIBILITIES

The Chief Investigator should communicate to all supervisors the prohibition against retaliation.

Command staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

a. Communicating to all members the prohibition against retaliation.

b. The timely review of complaint investigations.

c. Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.

d. The timely communication of the outcome to the complainant.

1003.7 WHISTLE-BLOWING

California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

a. Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member’s supervisor or any other member with the authority to investigate the reported violation.
b. Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.
c. Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.
d. File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.
e. Are family members of a person who has engaged in any protected acts described above.

Members are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Internal Affairs for investigation pursuant to the Personnel Complaints Policy.

1003.7.1 DISPLAY OF WHISTLE-BLOWER LAWS

The bureau shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

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1003.8 RECORDS RETENTION AND RELEASE

The Administrative Lieutenant shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1003.9 TRAINING

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

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Reporting of Arrests, Convictions, and Court Orders

1004.1 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 San Joaquin County District Attorney's Office. 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.

1004.2 POLICY

The San Joaquin County District Attorney's Office 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.

1004.3 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.

1004.4 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.

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1004.5 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 Administrative Lieutenant or the Chief Investigator) in writing of any past or current criminal detention, arrest, charge, or 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 Administrative Lieutenant 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).

1004.5.1 NOTIFICATION REQUIREMENTS

The AdministrationLieutenant 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).

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Drug- and Alcohol-Free Workplace

1005.1 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).

1005.2 POLICY

It is the policy of this bureau to provide a drug- and alcohol-free workplace for all members.

1005.3 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 lieutenant 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).

1005.3.1 USE OF MEDICATIONS

Members should not use any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to the member's immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the bureau while taking any medication that has the potential to impair the member's abilities, without a written release from the member's physician.

1005.3.2 MEDICAL CANNABIS

Possession, use, or being under the influence of medical cannabis on-duty is prohibited and may lead to disciplinary action.

1005.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on bureau premises or on bureau time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

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Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

1005.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the San Joaquin County Department of Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

1005.6 WORK RESTRICTIONS

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the bureau.

1005.7 SCREENING TESTS

A supervisor may require an employee to submit to a screening under any of the following circumstances:

a. The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing the employee's ability to perform duties safely and efficiently.
b. The employee discharges a firearm in the performance of the employee's duties (excluding training or authorized euthanizing of an animal).
c. The employee discharges a firearm issued by the bureau while off-duty, resulting in injury, death, or substantial property damage.
d. The employee drives a motor vehicle in the performance of the employee's duties and becomes involved in an incident that results in bodily injury, death, or substantial damage to property.

1005.7.1 SUPERVISOR RESPONSIBILITIES

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The supervisor shall prepare a written record documenting the specific facts that led to the decision to require the test, and shall inform the employee in writing of the following:

a. The test will be given to detect either alcohol or drugs, or both.
b. The result of the test is not admissible in any criminal proceeding against the employee.
c. The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

1005.7.2 DISCIPLINE

An employee may be subject to disciplinary action if the employee:

a. Fails or refuses to submit to a screening test as requested.
b. After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that the employee took the controlled substance as directed, pursuant to a current and lawful prescription issued in the employee's name.

1005.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the 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).

1005.9 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.

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Sick Leave

1006.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of sick leave use for eligible employees are detailed in the county personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.), the California Family Rights Act, leave for victims of crime or abuse, or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Government Code § 12945.8; Labor Code § 1510).

1006.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to provide eligible employees with a sick leave benefit.

1006.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see Outside Employment Policy).

Qualified appointments should be scheduled during a member’s non-working hours when it is reasonable to do so.

1006.3.1 NOTIFICATION

All members should notify the lieutenant or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor (Labor Code § 246).

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the bureau with no less than 30 days' notice of the impending absence (Labor Code § 246).

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

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1006.4 EXTENDED ABSENCE

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence if three or fewer sick days are taken.

1006.5 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

1. Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
2. Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the San Joaquin County Department of Human Resources as appropriate.
3. Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
    a. Negatively affected the member's performance or ability to complete assigned duties.
    b. Negatively affected bureau operations.
4. When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
5. Referring eligible members to an available employee assistance program when appropriate.

1006.6 REQUIRED NOTICES

The Personnel Manager shall ensure:

a. Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.
b. A poster is displayed in a conspicuous place for employees to review that contains information on paid sick leave as provided in Labor Code § 247.

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Communicable Diseases

1007.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of bureau members contracting and/or spreading communicable diseases.

1007.1.1 DEFINITIONS

Definitions related to this policy include:

Communicable disease - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

Exposure - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member’s position at the San Joaquin County District Attorney's Office. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

1007.2 POLICY

The San Joaquin County District Attorney's Office is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

1007.3 EXPOSURE CONTROL PLAN

The Bureau shall develop an exposure control plan that includes:

a. Exposure-prevention and decontamination procedures.
b. Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
c. The provision that bureau members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.
d. Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).
e. Compliance with all relevant laws or regulations related to communicable diseases, including:
    1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
    2. Bloodborne pathogen mandates including (8 CCR 5193):
        a. Sharps injury log.

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b. Needleless systems and sharps injury protection.

3. Airborne transmissible disease mandates including (8 CCR 5199):
    a. Engineering and work practice controls related to airborne transmissible diseases.
    b. Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.
4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).
5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease and that the member is notified of any exposure as required by Health and Safety Code § 1797.188.
6. Informing members of the provisions of Health and Safety Code § 1797.188 (exposure to communicable diseases and notification).

f. Provisions for acting as the designated officer liaison with health care facilities regarding communicable disease or condition exposure notification. The designated officer should coordinate with other bureau members to fulfill the role when not available. The designated officer shall ensure that the name, title, and telephone number of the designated officer is posted on the bureau website (Health and Safety Code § 1797.188).

The Bureau should also liaison with the Division of Occupational Safety and Health (Cal/OSHA) and may request voluntary compliance inspections. The Bureau shall annually review and update the exposure control plan and review implementation of the plan (8 CCR 5193).

1007.4 EXPOSURE PREVENTION AND MITIGATION

1007.4.1 GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (8 CCR 5193):

1. Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or bureau vehicles, as applicable.
2. Wearing bureau-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
3. Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
4. Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
5. Using an appropriate barrier device when providing CPR.
6. Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
7. Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.
    1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.

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8. Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
9. Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
10. Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

1007.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (8 CCR 5193).

1007.5 POST EXPOSURE

1007.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

a. Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
b. Obtain medical attention as appropriate.
c. Notify a supervisor as soon as practicable.

1007.5.2 REPORTING REQUIREMENTS

A supervisor shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

a. Name and Social Security number of the member exposed
b. Date and time of the incident
c. Location of the incident
d. Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
e. Work being done during exposure
f. How the incident occurred or was caused
g. PPE in use at the time of the incident
h. Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

1007.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

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Bureau members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (8 CCR 5193).

A written opinion/evaluation from the treating medical professional should be requested containing only the following information:

a. Whether the member has been informed of the results of the evaluation.
b. Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted.

1007.5.4 COUNSELING

The bureau shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

1007.5.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate (8 CCR 5193). Source testing is the responsibility of the reporting supervisor. If the reporting supervisor is unavailable to seek timely testing of the source, it is the responsibility of the Assistant Chief or their designee to ensure testing is sought.

Source testing may be achieved by:

a. Obtaining consent from the individual.
b. Complying with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.
c. Testing the exposed member for evidence of a communicable disease and seeking consent from the source individual to either access existing blood samples for testing or for the source to submit to testing (Health and Safety Code § 120262).
d. Taking reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).
e. Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing a person when the exposed member qualifies as a crime victim (Penal Code § 1524.1).

Since there is the potential for overlap between the different manners in which source testing may occur, the reporting supervisor is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

The reporting supervisor should seek the consent of the individual for testing and consult the County Counsel to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

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1007.6 CONFIDENTIALITY OF REPORTS

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

1007.7 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (8 CCR 5193):

a. Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
b. Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
c. Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

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Smoking and Tobacco Use

1008.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members while on-duty or while in San Joaquin County District Attorney's Office facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco products, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

1008.2 POLICY

The San Joaquin County District Attorney's Office recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the bureau and its members. Therefore, smoking and tobacco use is prohibited by members and visitors in all bureau facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5).

1008.3 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit or operable window of any public building (including any bureau 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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Personnel Complaints

1009.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the San Joaquin County District Attorney's Office. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1009.2 POLICY

The San Joaquin County District Attorney's Office takes seriously all complaints regarding the service provided by the bureau and the conduct of its members.

The bureau will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this bureau to ensure that the community can report misconduct without concern for reprisal or retaliation.

1009.3 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.

1009.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the lieutenant 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 should be investigated by a supervisor of rank greater than the accused member or referred to the Administrative Lieutenant for an administrative investigation, depending on the seriousness and complexity of the investigation.

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Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or investigator, matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

1009.3.2 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.

1009.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1009.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the bureau facility and may be accessible through the bureau website.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

1009.4.2 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).

1009.4.3 HATE COMPLAINTS AGAINST PEACE OFFICERS

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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).

1009.4.4 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).

1009.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the bureau should audit the log and send an audit report to the Chief Investigator or the authorized designee.

1009.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1009.6.1 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:

1. Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
    1. The original complaint form will be directed to the lieutenant of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
    2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's lieutenant or the Chief Investigator, who will initiate appropriate action.
2. Responding to all complainants in a courteous and professional manner.
3. Resolving those personnel complaints that can be resolved immediately.

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1. Follow-up contact with the complainant should be made within 24 hours of the bureau receiving the complaint.
2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the lieutenant.

4. Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the lieutenant and the Chief Investigator are notified via the chain of command as soon as practicable.
5. Promptly contacting the San Joaquin County Department of Human Resources and the lieutenant for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
6. Forwarding unresolved personnel complaints to the lieutenant, who will determine whether to contact the complainant or assign the complaint for investigation.
7. Informing the complainant of the investigator’s name and the complaint number within three days after assignment.
8. 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.
9. Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).
10. Ensuring interviews of the complainant are generally conducted during reasonable hours.

1009.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Internal Affairs, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

1. 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, they shall be compensated.
2. Unless waived by the member, interviews of an accused member shall be at the San Joaquin County District Attorney's Office or other reasonable and appropriate place.
3. No more than two interviewers should ask questions of an accused member.
4. 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.
5. All interviews shall be for a reasonable period and the member's personal needs should be accommodated.
6. No member should be subjected to offensive or threatening language, nor shall any promises, rewards, or other inducements be used to obtain answers.
7. 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

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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.

8. 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.
9. 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.
10. All members shall provide complete and truthful responses to questions posed during interviews.
11. 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).

1009.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1009.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve bureau members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and /or proper.

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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.

1009.6.5 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.

1009.6.6 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.

1009.6.7 LIMITATIONS ON INVESTIGATIONS

Investigations shall not be undertaken against any investigator in the following limited circumstances:

a. 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* (Government Code § 3305.5).
    1. An investigation may be initiated 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*.
b. A court finding against an investigator in a challenge brought under Penal Code § 745 (California Racial Justice Act of 2020) (Government Code § 3305.6).
    1. An investigation may be Initiated based on the underlying acts or omissions which formed the basis of the action brought pursuant to Penal Code § 745 (Government Code § 3305.6).

1009.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

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Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, with the member's consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

1009.7.1 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

1009.8 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 to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1009.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief Investigator shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief Investigator may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303 (h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The San Joaquin County District Attorney's Office may release information concerning the arrest or detention of any member, including an investigator, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

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1009.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief Investigator through the chain of command. Each level of command should review the report 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.

1009.10.1 LIEUTENANT RESPONSIBILITIES

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

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

Prior to forwarding recommendations to the Chief Investigator, the lieutenant may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief Investigator, the lieutenant shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1009.10.2 CHIEF INVESTIGATOR RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief Investigator shall review the recommendation and all accompanying materials. The Chief Investigator may modify any recommendation and/or may return the file to the lieutenant for further investigation or action.

Once the Chief Investigator is satisfied that no further investigation or action is required by staff, the Chief Investigator shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief Investigator shall provide the member with a pre-disciplinary procedural due process hearing (*Skelly*) by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief Investigator shall also provide the member with:

1. Access to all of the materials considered by the Chief Investigator in recommending the proposed discipline.
2. An opportunity to respond orally or in writing to the Chief Investigator within five days of receiving the notice.
    1. Upon a showing of good cause by the member, the Chief Investigator may grant a reasonable extension of time for the member to respond.
    2. If the member elects to respond orally, the presentation may be recorded by the bureau. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Chief Investigator shall consider all information received in regard to the recommended discipline. The Chief Investigator

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shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief Investigator has issued a written decision, the discipline shall become effective.

1009.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief Investigator or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(f)).

1009.10.4 NOTICE REQUIREMENTS

The disposition of any civilian’s complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(f)).

1009.10.5 DISCIPLINE

Disciplinary actions should be administered progressively, as appropriate. Disciplinary action may include the following:

- Verbal warning
- Written warning
- Suspension
- Demotion or reassignment
- Termination

1009.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

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

a. The response is not intended to be an adversarial or formal hearing.
b. Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
c. The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief Investigator to consider.
d. In the event that the Chief Investigator elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
e. The employee may thereafter have the opportunity to further respond orally or in writing to the Chief Investigator on the limited issues of information raised in any subsequent materials.

1009.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

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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).

1009.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding, and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

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).

Additionally, any evidence of a court finding that an investigator violated Penal Code § 745 (California Racial Justice Act of 2020) shall not be introduced for any purpose in any administration appeal of a punitive action (Government Code § 3305.6).

1009.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary investigator subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief Investigator or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief Investigator shall be final.

1009.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

1009.16 REQUIRED REPORTING TO POST

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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.
    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 San Joaquin County District Attorney's Office 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.

1009.16.1 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.

1009.16.2 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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Body Armor

1010.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1010.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1010.3 ISSUANCE OF BODY ARMOR

The Administration supervisor shall ensure that body armor is issued to all investigators when the investigator begins service at the San Joaquin County District Attorney's Office and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Administration supervisor shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

1010.3.1 USE OF 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. District Attorney 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.

1010.3.2 CARE AND MAINTENANCE OF BODY ARMOR

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

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.

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

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

1010.4 RANGEMASTER RESPONSIBILITIES

The Rangemaster should:

a. Monitor technological advances in the body armor industry for any appropriate changes to bureau approved body armor.
b. Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
c. Provide training that educates investigators about the safety benefits of wearing body armor.

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Personnel Records

1011.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1011.2 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).

1011.3 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:

1. 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.
2. Election of employee benefits.
3. Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.
4. Original performance evaluations. These should be permanently retained.
5. 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).
6. 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).

7. Commendations and awards.
8. Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

1011.4 DIVISION FILE

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The division file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code § 3305 and Government Code § 3306.

1011.4.1 PERFORMANCE LOG

Performance logs may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The performance log 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. Performance logs may contain positive and/or negative entries about a member's performance.

Performance log entries should be maintained for the member's current rating year and the year prior. Entries documenting discipline should not be retained longer than the retention period for that type of discipline (e.g.: a memorandum of correction is retained for 13 months). It is the member's responsibility to request the expungement of any record of a disciplinary action from
their performance log.

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.

1011.5 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.

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1011.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Internal Affairs 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 supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

a. Not sustained
b. Unfounded
c. Exonerated

Investigation files arising out of 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).

1011.7 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.

1011.8 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.

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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 Elected District Attorney, county counsel or other attorneys or representatives of the county in connection with official business.

1011.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member’s personnel records shall be logged in the corresponding file.

1011.8.2 RELEASE OF PERSONNEL INFORMATION

Personnel records shall not be disclosed except as allowed by law (Penal Code § 832.7; Evidence Code § 1043) (see also Records Maintenance and Release Policy).

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this 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).

The bureau may, without a request, disclose to the public the cause of termination for a disclosable incident involving a former investigator, as permitted by law (Penal Code § 832.7(b)(13)).

1011.8.3 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).

1011.8.4 RELEASE OF PEACE OFFICER RECORDS RELATING TO HATE COMPLAINTS

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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.

1011.9 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.

The Custodian of Records should work as appropriate with the Chief Investigator or the Internal Affairs 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.

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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. District Attorney 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 statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.
    3. District Attorney 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. District Attorney 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)).

1011.9.1 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

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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)).

1011.9.2 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

1011.9.3 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.

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1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:
    a. When the criminal proceeding is against someone other than an investigator and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the 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)).

1011.10 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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1011.11 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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Request for Transfer

1012.1 PURPOSE AND SCOPE

It is the intent of the bureau to maintain a transparent, fair, and mission-driven process for transferring sworn personnel between investigative units within the Bureau of Investigation. This policy ensures that all requests for change of assignment are considered equally and supports operational needs, professional development, and staff efficiency.

1012.1.1 DEFINITIONS

Internal Transfer: Movement of a staff member from one unit to another within the Bureau.

Voluntary Transfer: A transfer initiated by the employee through a written memorandum or form.

Involuntary Transfer: A transfer directed by command staff based on organizational needs.

1012.2 REQUEST FOR TRANSFER

Personnel wishing for a change of assignment shall complete a Transfer Request Memorandum or Form and submit it to the Administrative Lieutenant. The memorandum shall include the employee's relevant experience, education, and training, and list all desired unit assignments in order of preference. Transfer requests will remain active until December 31 of the year in which they are submitted. Employees still interested in a transfer after that date must resubmit annually.

1012.2.1 ELIGIBILITY CRITERIA

Employees must generally meet the following conditions:

A. At least 12 months of service in their current unit (exceptions may be granted based on operational needs).
B. Current performance evaluation rating of 'Meets Standards' or higher.
C. No active disciplinary actions or performance improvement plans.
D. Compliance with all training and certification requirements for the target unit.

1012.2.2 UNIT-SPECIFIC CONSIDERATIONS

Certain specialized units may have additional eligibility or clearance requirements due to the sensitivity, confidentiality, or complexity of the investigations involved. Employees are encouraged to consult the Administrative Lieutenant for information regarding unit-specific expectations or prerequisites prior to submitting a transfer request.

1012.3 EVALUATION AND SELECTION

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Supervisors shall review all transfer requests and provide written recommendations to the Chief Investigator. Candidates may be interviewed by the supervisor and the Deputy District Attorney assigned to the unit with the opening. During the evaluation process, all listed unit preferences will be considered. However, final placement is determined based on the operational needs of the bureau.

Final transfer decisions will take into account the following factors:

A. Operational needs of each unit.
B. Candidate's skills, training, and investigative experience.
C. Overall performance history and work habits.
D. Compatibility with the unit's mission and workload.
E. The best interests of the bureau and the District Attorney's Office.

Although an investigator may be reassigned at any time, they will generally be considered eligible for transfer after serving at least 12 months in their current assignment. Submission of a transfer request does not guarantee selection or transfer. All transfer decisions are made at the discretion of the Chief Investigator or designee.

1012.3.1 INVOLUNTARY TRANSFERS

Involuntary transfers may occur due to staffing shortages, restructuring or dissolution of a unit, safety or integrity concerns, or other operational needs. Affected employees will be notified and provided an opportunity to offer input prior to transfer when feasible.

1012.4 AUTHORITY AND EXCEPTIONS

The Chief Investigator reserves the authority to override transfer timelines, eligibility criteria, or procedural steps when necessary to address public safety, high-priority investigations, or urgent operational needs. Such exceptions will be made in the best interests of the bureau and the organization as a whole.

1012.5 CONFIDENTIALITY

All transfer requests, evaluations, and decisions shall be handled with appropriate discretion and in accordance with San Joaquin County Human Resources policies.

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Fitness for Duty

1013.1 PURPOSE AND SCOPE

All investigators are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all investigators of this bureau remain fit for duty and able to perform their job functions (Government Code § 1031).

1013.2 EMPLOYEE RESPONSIBILITIES

a. It shall be the responsibility of each member of this bureau to maintain good physical condition sufficiently to safely and properly perform essential duties of their position.
b. Each member of this 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.

1013.3 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 Assistant Chief or employee's available lieutenant, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
e. The Chief Investigator shall be promptly notified if any employee is relieved from duty.

1013.4 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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1013.5 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 Assistant Chief Investigator or unit supervisor and concurrence of the Chief Investigator, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

a. A preliminary determination that the employee's conduct appears to 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.

1013.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

a. Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief Investigator may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Department of Human Resources to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
b. The examining physician or therapist will provide the 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.

1013.7 LIMITATION ON HOURS WORKED

Absent emergency operations members should not work more than:

- 18 hours in one day (24 hour) period or

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- 36 hours in any 2 day (48 hour) period or

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

1013.8 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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Lactation Breaks

1014.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding reasonable accommodations for lactating members (Labor Code § 1034).

1014.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office 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).

1014.3 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 should notify 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.

1014.4 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.

Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

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1014.5 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.

1014.5.1 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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Outside Employment

1015.1 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 prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief Investigator in accordance with the provisions of this policy.

1015.1.1 DEFINITIONS

Outside Employment - Any member of this bureau who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this 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 this bureau for services, product(s) or benefits rendered.

Outside Overtime - Any member of this 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 this bureau so that the bureau may be reimbursed for the cost of wages and benefits.

1015.2 OBTAINING APPROVAL

No member of this bureau may engage in any outside employment without first obtaining prior written approval of the Chief Investigator. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete a memorandum detailing who the prospective employer is, what the job duties consist of and how many hours per week will be worked. This memorandum shall be submitted to the employee's immediate supervisor. The memorandum will then be forwarded through channels to the Chief Investigator for consideration.

The administration will notify the employee of approval or denial of the request along with any potential restrictions on the outside employment.

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)).

1015.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee’s Outside Employment Application is denied or withdrawn by the bureau, the employee may file a written notice of appeal to the Chief Investigator within ten days of the date of denial.

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).

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1015.2.2 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 bureau 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 bureau 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

1015.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the bureau expressly reserves the right to deny any outside employment request submitted by an employee seeking to engage in any activity which:

a. Involves the employee's use of bureau time, facilities, equipment or supplies, the use of the bureau badge, uniform, prestige or influence for private gain or advantage.
b. Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this bureau 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 bureau.
c. Involves the performance of an act other than the employee's capacity as a member of this bureau that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this bureau.
d. Involves time demands that would render performance of the employee's duties for this bureau less efficient.

1015.3.1 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, members of this bureau may engage in outside or secondary employment as a private security or other similar private security positions only with the Chief Investigator's written approval.

Any private organization, entity or individual seeking special services for security or traffic control from members of this bureau 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 bureau.

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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 bureau uniform/identification.
    2. The investigator(s) shall be subject to the rules and regulations of this bureau.
    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.

1015.3.2 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 bureau policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1015.4 BUREAU RESOURCES

Employees are prohibited from using any bureau 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 bureau or other agencies through the use of the employee’s position with this bureau.

1015.5 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. 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.

1015.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Bureau 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

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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.

When the disabled member returns to full duty with the San Joaquin County District Attorney's Office, a request (in writing) may be made to the Chief Investigator to restore the permit.

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Occupational Disease and Work-Related Injury Reporting

1016.1 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.

1016.1.1 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.).

1016.2 POLICY

The San Joaquin County District Attorney's Office will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.).

1016.3 RESPONSIBILITIES

1016.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate (8 CCR 14300.35).

1016.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or work-related injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related county wide disease- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

1016.3.3 LIEUTENANT RESPONSIBILITIES

The lieutenant who receives a report of an occupational disease or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Department Health Safety Representative (DHSR), Chief Investigator, the county's risk management entity, and the Administration Lieutenant. This is to ensure any required Division of Occupational Health and Safety

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Administration (Cal/OSHA) reporting is made as required in the illness and injury prevention plan identified in the Illness and Injury Prevention Policy.

1016.4 OTHER DISEASE OR INJURY

Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate lieutenant through the chain of command and a copy sent to the Administration Lieutenant.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

1016.5 SETTLEMENT OFFERS

When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

1016.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or work-related injury, the member shall provide the Chief Investigator with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief Investigator. The purpose of such notice is to permit the county to determine whether the offered settlement will affect any claim the county may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the county's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

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Personal Appearance Standards

1017.1 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.

1017.2 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.

1017.2.1 HAIR

Hairstyles of all members shall be neat and professional in appearance.

1017.2.2 FACIAL HAIR

A short and neatly trimmed mustache, beard or goatee of natural color may be worn. Mustaches and goatees shall be well groomed and of a conservative style.

1017.2.3 JEWELRY

For the purpose of this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the bureau member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

Jewelry may not be worn in a manner that might constitute a safety hazard. Rings, watches, necklaces and bracelets worn in reasonable moderation and good taste by either male or female investigators are acceptable.

1017.3 DRESS STANDARDS

All investigators shall maintain standards of professional appearance consistent with generally accepted standards of business professional and business casual as those of the legal and business community. Their attire shall be kept neat, clean, pressed and properly tailored.

All investigators should maintain an accessible set of professional business attire in the event circumstances warrant an investigator to be donned in professional business attire.

1017.3.1 BUSINESS ATTIRE

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For male investigators, business attire is a business suit or sports coat with dress slacks, dress shirt, necktie and appropriate footwear including socks.

For female investigators, business attire is a dress, skirt and blouse, pantsuit or blouse and pants, appropriate undergarments and appropriate footwear.

1017.3.2 CASUAL PROFESSIONAL ATTIRE

For female Investigators, casual professional attire includes pantsuits, dress slacks, blouses, polo style shirts, Docker style pants, stockings or socks, and business footwear with no more than a low heel that does not present an officer safety issue or hazard.

For male Investigators, casual professional attire includes dress slacks, Dockers style pants, button style shirts with collars, polo style shirts, socks and business footwear. Ties are optional. Shirts worn untucked must be a shirt designed to worn untucked, have a finished hem, should be well pressed, and not have tails

1017.3.3 ON-CALL PROTOCOL TEAM ATTIRE

Department personnel assigned to an on-call Protocol team shall dress in a manner that will ensure that the professional image of the bureau is maintained. Acceptable attire for a call-out is business professional or business casual. On-call personnel may choose to wear their bureau approved polo shirts (with or without shoulder patches), BDU style pants and appropriate footwear.

Other dress exceptions can be made at the discretion of the on-call coordinator when circumstances dictate.

1017.4 TATTOOS

While on-duty or representing the bureau in any official capacity, members should make every reasonable effort to conceal tattoos or other body art. At no time while the member is on-duty or representing the bureau in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material.

1017.5 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body 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.

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1017.6 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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Nepotism and Conflicting Relationships

1018.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this bureau. 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.

1018.1.1 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.

1018.2 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):

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a. Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.
    1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
    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 bureau shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
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.

1018.2.1 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 have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

1018.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief Investigator of such actual or potential violations through the chain of command.

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Bureau Badges

1019.1 PURPOSE AND SCOPE

The San Joaquin County District Attorney's Office badge and uniform patch as well as the likeness of these items and the name of the San Joaquin County District Attorney's Office are property of the bureau and their use shall be restricted as set forth in this policy.

1019.2 POLICY

The uniform badge shall be issued to bureau members as a symbol of authority and the use and display of bureau badges shall be in strict compliance with this policy. Only authorized badges issued by this bureau shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

1019.2.1 FLAT BADGE

Sworn investigators, with the written approval of the Chief Investigator may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of bureau policy as the uniform badge.

a. District Attorney Investigator may sell, exchange, or transfer the flat badge he/she purchased to another investigator within the San Joaquin County District Attorney's Office with the written approval of the Chief Investigator.
b. Should the flat badge become lost, damaged, or otherwise removed from the investigator’s control, he/she shall make the proper notifications as outlined in the bureau Owned and Personal Property Policy.
c. An honorably retired investigator may keep his/her flat badge upon retirement.
d. The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

1019.2.2 NON SWORN PERSONNEL

Badges and bureau identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (Investigative Assistant).

a. Non-sworn personnel shall not display any bureau badge except while on duty, or otherwise acting in an official and authorized capacity.
b. Non-sworn personnel shall not display any bureau 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.

1019.2.3 RETIREE UNIFORM BADGE

Upon honorable retirement employees may purchase 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.

1019.3 UNAUTHORIZED USE

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Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Bureau badges are issued to all sworn employees and Investigative Assistants for official use only. The bureau badge, shoulder patch or the likeness thereof, or the bureau name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, uniform patch and bureau name for all material (printed matter, products or other items) developed for bureau use shall be subject to approval by the Chief Investigator.

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

1019.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the bureau badge shall not be used without the expressed authorization of the Chief Investigator and shall be subject to the following:

a. The employee associations may use the likeness of the bureau badge for merchandise and official association business provided they are used in a clear representation of the association and not the San Joaquin County District Attorney's Office. The following modifications shall be included:

    1. The text on the upper and lower ribbons is replaced with the name of the employee association.

    2. The badge number portion displays the acronym of the employee association.

b. The likeness of the bureau badge for endorsement of political candidates shall not be used without the expressed approval of the Chief Investigator.

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Temporary Modified-Duty Assignments

1020.1 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.

1020.2 POLICY

Subject to operational considerations, the San Joaquin County District Attorney's Office may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the bureau with a productive employee during the temporary period.

1020.3 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 San Joaquin County District Attorney's Office shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the bureau. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The 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.

1020.4 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 their lieutenant 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 lieutenant will make a recommendation through the chain of command to the Chief Investigator regarding temporary modified-duty assignments that may be available based on the needs of the bureau and the limitations of the employee. The Chief Investigator or the authorized designee shall confer with the Department of Human Resources or the County Counsel as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the lieutenant, with notice to the Chief Investigator.

1020.5 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 lieutenant.

1020.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

a. Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
b. Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
c. Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
d. Submitting a written status report to the lieutenant that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

1020.5.2 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:

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a. Periodically apprising the lieutenant of the status and performance of employees assigned to temporary modified duty.
b. Notifying the lieutenant and ensuring that the required documentation facilitating a return to full duty is received from the employee.
c. Ensuring that employees returning to full duty have completed any required training and certification.

1020.6 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.

1020.7 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).

1020.7.1 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.

1020.8 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.

1020.9 MAINTENANCE OF CERTIFICATION AND TRAINING

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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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Speech, Expression, and Social Networking

1021.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with the use of social networking sites, and provides guidelines for the regulation and balancing of member speech and expression with the needs of the San Joaquin County District Attorney's Office.

This policy applies to all forms of communication including but not limited to digital media, print media, public or private speech, and use of all internet services, including the web, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, and other file-sharing sites.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech, or expression that is protected 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 a member from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or an employee group, about matters of public concern, such as misconduct or corruption.

Members are encouraged to consult with their supervisors regarding any questions arising from the application or potential application of this policy.

1021.2 POLICY

Members of public entities occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of the San Joaquin County District Attorney's Office. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that members 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 bureau will carefully balance the individual member's rights against the needs and interests of the bureau when exercising a reasonable degree of control over its members' speech and expression.

1021.3 SAFETY

Members should carefully consider 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 San Joaquin County District Attorney's Office members, such as posting personal information in a public forum or posting a photograph taken with a Global Positioning System (GPS)-enabled camera, can result in compromising a member's home address or family ties. Members should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any member, a member's family, or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an investigator who is working undercover.
- Disclosing the address of a fellow bureau member.

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- Otherwise disclosing where another investigator can be located off-duty.

1021.4 PROHIBITED SPEECH, EXPRESSION, AND CONDUCT

To meet the safety, performance, and public-trust needs of the San Joaquin County District Attorney's Office, the following are prohibited unless the speech is otherwise protected (e.g., a member speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or an employee group, 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 San Joaquin County District Attorney's Office or its members.
b. Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the bureau and tends to compromise or damage the mission, function, reputation, or professionalism of the bureau or its members. Examples may include:
    1. Statements that indicate disregard for the law or the state or U.S. Constitutions.
    2. Expression that demonstrates support for criminal activity.
    3. Participation 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 member as a witness. For example, posting to a website statements or expressions 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 members of the bureau (e.g., 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 members 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 bureau.
f. Use or disclosure, through whatever means, of any information, photograph, digital media, or other recording obtained or accessible as a result of employment or appointment 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, digital media, or audio recordings, likenesses, or images of bureau logos, emblems, uniforms, badges, patches, marked vehicles, equipment, or other material that specifically identifies the San Joaquin County District Attorney's Office on any personal or social networking or other website or web page, without the express authorization of the Chief Investigator.

Members 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).

1021.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While members are not restricted from engaging in the following activities as private citizens or as authorized members of recognized bargaining units or employee groups, members may not represent the San Joaquin County

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District Attorney's Office or identify themselves in any way that could be reasonably perceived as representing the bureau 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, or public broadcast; or on any website.

Additionally, when it can reasonably be construed that a member, acting in their individual capacity or through an outside group or organization, including as an authorized member of a recognized bargaining unit or an employee group, is affiliated with this bureau, the member shall give a specific disclaiming statement that any such speech or expression is not representative of the San Joaquin County District Attorney's Office.

Members retain their rights to vote as they choose, to support candidates of their choice, and to express their opinions as private citizens, including as authorized members of recognized bargaining units or employee groups, on political subjects and candidates at all times while off-duty. However, members may not use their official authority or influence to interfere with or affect the result of elections or nominations for office. Members are also prohibited from directly or indirectly using their official authority to coerce, command, or advise another member to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes (5 USC § 1502).

1021.5 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published or maintained through file-sharing software or any internet site, including social media, that is accessed, transmitted, received, or reviewed on any bureau technology system (see the Information Technology Use Policy for additional guidance).

The bureau should not require a member to disclose a personal user name or password for accessing personal social media or to open a personal social website.

1021.6 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 the 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 their duties.
e. Whether similar speech or conduct has been previously authorized.

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f. Whether the speech or conduct may be protected and outweighs any interest of the bureau.

1021.7 TRAINING

Subject to available resources, the bureau should provide training regarding the limitations on speech, expression, and use of social networking to all members of the bureau.

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Line-of-Duty Deaths

1022.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the San Joaquin County District Attorney's Office 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.

1022.1.1 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 professional staff 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.

1022.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this bureau to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

1022.3 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 Chief Investigator or the authorized 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 bureau Liaison as soon as practicable (see the Notifying Survivors section and the bureau Liaison and Hospital Liaison subsections in this policy).

1022.4 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, lieutenant, or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the SJCDA 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.
g. Offer to call other survivors, friends, or clergy to support the survivors and to avoid leaving survivors alone after notification.

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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 San Joaquin County District Attorney's Office members may be apprised that survivor notifications are complete.

1022.4.1 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.

1022.5 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.

Supervisors should direct members not to disclose any information outside the bureau regarding the deceased member or the incident.

1022.6 LIAISONS AND COORDINATORS

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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.

1022.6.1 BUREAU LIAISON

The bureau Liaison should be a lieutenant 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.
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.

1022.6.2 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

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1. 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).
2. 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.
3. 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 San Joaquin County District Attorney's Office members (except for members who may be guarding a suspect).
4. Arrange for survivors to receive timely updates regarding the member before information is released to others.
5. 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.
6. Stay with survivors and provide them with other assistance as needed at the hospital.
7. If applicable, explain to the survivors why an autopsy may be needed.
8. 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.

1022.6.3 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 lieutenant. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- 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.

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- 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:

1. Arranging for transportation of survivors to hospitals, places of worship, funeral homes, and other locations, as appropriate.
2. Communicating with the bureau Liaison regarding appropriate security measures for the family residence, as needed.
3. If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
4. Providing assistance with travel and lodging arrangements for out-of-town survivors.
5. 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.
6. 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.
7. Working with the Wellness Support Liaison for survivors to have access to available counseling services.
8. 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).
9. Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal, and administrative investigations.
10. Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
11. Introducing survivors to prosecutors, victim's assistance personnel, and other involved personnel as appropriate.
12. 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).
13. 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.

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1022.6.4 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:

1. 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.
2. Making arrangements for members who were involved in or witnessed the incident to be relieved of bureau responsibilities until they can receive wellness support.
3. 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.
4. Coordinating with the Survivor Support Liaison to inform survivors of available wellness support and counseling services and assisting with arrangements as needed.
5. 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.

1022.6.5 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:

1. Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.
2. Completing funeral notification to other law enforcement agencies.
3. Coordinating the funeral activities of the bureau, including but not limited to the following:
    1. Honor Guard
        1. Casket watch
        2. Color guard
        3. Pallbearers
        4. Bell/rifle salute
    2. Bagpipers/bugler
    3. Uniform for burial
    4. Flag presentation
    5. Last radio call
4. Briefing the Chief Investigator and command staff concerning funeral arrangements.
5. Assigning an investigator to remain at the family home during the viewing and funeral.

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6. Arranging for transportation of the survivors to and from the funeral home and interment site using bureau vehicles and drivers.
7. Addressing event-related logistical matters (e.g., parking, visitor overflow, public assembly areas).

1022.6.6 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:

a. Traffic control during the deceased member's funeral.
b. Area coverage so that as many San Joaquin County District Attorney's Office 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).

1022.6.7 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:

1. Confirming the filing of workers' compensation claims and related paperwork (see the Occupational Disease and Work-Related Injury Reporting Policy).
2. 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.
3. 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).
4. Researching and assisting survivors with application for other survivor benefits such as:
    1. Private foundation survivor benefits programs.
    2. Survivor scholarship programs.
5. Researching and informing survivors of support programs sponsored by bureau associations and other organizations.
6. 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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7. 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.
8. Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

1022.6.8 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:

1. Establishing methods for purchasing and monitoring costs related to the incident.
2. 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.
3. Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.
4. Providing accounting and cost information as needed.

1022.7 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:

1. Collect and maintain the most current incident information and determine what information should be released.
2. Instruct bureau members to direct any media inquiries to the PIO.
3. 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.
4. Arrange for community and media briefings by the Chief Investigator or the authorized designee as appropriate.
5. Respond, or coordinate the response, to media inquiries.
6. 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.
7. Release information regarding memorial services and funeral arrangements to bureau members, other agencies, and the media as appropriate.
8. If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

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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.

1022.8 DISTRICT ATTORNEY'S OFFICE CHAPLAIN

The San Joaquin County District Attorney's Office 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.

1022.9 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.

1022.10 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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Wellness Program

1023.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance on establishing and maintaining a proactive wellness program for bureau members.

The wellness program is intended to be a holistic approach to a member's well-being and encompasses aspects such as physical fitness, mental health, and overall wellness.

Additional information on member wellness is provided in the:

- Chaplains Policy.
- Line-of-Duty Deaths Policy.
- Drug- and Alcohol-Free Workplace Policy.

1023.1.1 DEFINITIONS

Definitions related to this policy include:

Critical incident – An event or situation that may cause a strong emotional, cognitive, or physical reaction that has the potential to interfere with daily life.

Critical Incident Stress Debriefing (CISD) – A standardized approach using a discussion format to provide education, support, and emotional release opportunities for members involved in work-related critical incidents.

Peer support – Mental and emotional wellness support provided by peers trained to help members cope with critical incidents and certain personal or professional problems.

1023.2 POLICY

It is the policy of the San Joaquin County District Attorney's Office to prioritize member wellness to foster fitness for duty and support a healthy quality of life for bureau members. The bureau will maintain a wellness program that supports its members with proactive wellness resources, critical incident response, and follow-up support.

1023.3 WELLNESS COORDINATOR

The Chief Investigator should appoint a trained wellness coordinator. The coordinator should report directly to the Chief Investigator or the authorized designee and should collaborate with advisers (e.g., Department of Human Resources, legal counsel, licensed psychotherapist, qualified health professionals), as appropriate, to fulfill the responsibilities of the position, including but not limited to:

a. Identifying wellness support providers (e.g., licensed psychotherapists, external peer support providers, physical therapists, dietitians, physical fitness trainers holding accredited certifications).

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1. As appropriate, selected providers should be trained and experienced in providing mental wellness support and counseling to public safety personnel.
2. When practicable, the bureau should not use the same licensed psychotherapist for both member wellness support and fitness for duty evaluations.

b. Developing management and operational procedures for bureau peer support members, such as:
    1. Peer support member selection and retention.
    2. Training and applicable certification requirements.
    3. Deployment.
    4. Managing potential conflicts between peer support members and those seeking service.
    5. Monitoring and mitigating peer support member emotional fatigue (i.e., compassion fatigue) associated with providing peer support.
    6. Using qualified peer support personnel from other public safety agencies or outside organizations for bureau peer support, as appropriate.
c. Verifying members have reasonable access to peer support or licensed psychotherapist support.
d. Establishing procedures for CISDs, including:
    1. Defining the types of incidents that may initiate debriefings.
    2. Steps for organizing debriefings.
e. Facilitating the delivery of wellness information, training, and support through various methods appropriate for the situation (e.g., phone hotlines, electronic applications).
f. Verifying a confidential, appropriate, and timely Employee Assistance Program (EAP) is available for members. This also includes:
    1. Obtaining a written description of the program services.
    2. Providing for the methods to obtain program services.
    3. Providing referrals to the EAP for appropriate diagnosis, treatment, and follow-up resources.
    4. Obtaining written procedures and guidelines for referrals to, or mandatory participation in, the program.
    5. Obtaining training for supervisors in their role and responsibilities, and identification of member behaviors that would indicate the existence of member concerns, problems, or issues that could impact member job performance.
g. Assisting members who have become disabled with application for federal government benefits such as those offered through the Public Safety Officers' Benefits Program (34 USC § 10281 et seq.).
    1. The coordinator should work with appropriate bureau liaisons to assist qualified members and survivors with benefits, wellness support, and counseling services, as applicable, when there has been a member death (see the Line-of-Duty Deaths Policy for additional guidance).

1023.4 BUREAU PEER SUPPORT

1023.4.1 PEER SUPPORT MEMBER SELECTION CRITERIA

The selection of a bureau peer support member will be at the discretion of the coordinator. Selection should be based on the member's:

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- Desire to be a peer support member.
- Experience or tenure.
- Demonstrated ability as a positive role model.
- Ability to communicate and interact effectively.
- Evaluation by supervisors and any current peer support members.

1023.4.2 PEER SUPPORT MEMBER RESPONSIBILITIES

The responsibilities of bureau peer support members include:

a. Providing pre- and post-critical incident support.
b. Presenting bureau members with periodic training on wellness topics, including but not limited to:
    1. Stress management.
    2. Suicide prevention.
    3. How to access support resources.
c. Providing referrals to licensed psychotherapists and other resources, where appropriate.
    1. Referrals should be made to bureau-designated resources in situations that are beyond the scope of the peer support member's training.

1023.4.3 PEER SUPPORT MEMBER TRAINING

A bureau peer support member should complete bureau-approved training prior to being assigned.

1023.5 CRITICAL INCIDENT STRESS DEBRIEFINGS

A Critical Incident Stress Debriefing should occur as soon as practicable following a critical incident. The coordinator is responsible for organizing the debriefing. Notes and recorded statements shall not be taken because the sole purpose of the debriefing is to help mitigate the stress-related effects of a critical incident.

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 should only include peer support members and those directly involved in the incident.

1023.6 PEER SUPPORT COMMUNICATIONS

Although the bureau will honor the sensitivity of communications with peer support members, there is no legal privilege to such communications, unless authorized by law (e.g., peer support communications pursuant to a Law Enforcement Peer Support and Crisis Referral Service Program).

1023.7 PHYSICAL WELLNESS PROGRAM

The coordinator is responsible for establishing guidelines for an on-duty physical wellness program, including the following:

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a. Voluntary participation by members
b. Allowable physical fitness activities
c. Permitted times and locations for physical fitness activities
d. Acceptable use of bureau-provided physical fitness facilities and equipment
e. Individual health screening and fitness assessment
f. Individual education (e.g., nutrition, sleep habits, proper exercise, injury prevention) and goal-setting
g. Standards for fitness incentive programs. The coordinator should collaborate with the appropriate entities (e.g., human resources, legal counsel) to verify that any standards are nondiscriminatory
h. Maintenance of physical wellness logs (e.g., attendance, goals, standards, progress)
i. Ongoing support and evaluation

1023.8 WELLNESS PROGRAM AUDIT

At least annually, the coordinator or the authorized designee should audit the effectiveness of the bureau's wellness program and prepare a report summarizing the findings. The report shall not contain the names of members participating in the wellness program, and should include the following information:

- Data on the types of support services provided
- Wait times for support services
- Participant feedback, if available
- Program improvement recommendations
- Policy revision recommendations

The coordinator should present the completed audit to the Chief Investigator for review and consideration of updates to improve program effectiveness.

1023.9 TRAINING

The coordinator or the authorized designee should collaborate with the Administrative Lieutenant to provide all members with regular training on topics related to member wellness, including but not limited to:

- The availability and range of bureau wellness support systems.
- Suicide prevention.
- Recognizing and managing mental distress, emotional fatigue, post-traumatic stress, and other possible reactions to trauma.
- Alcohol and substance disorder awareness.
- Countering sleep deprivation and physical fatigue.
- Anger management.
- Marriage and family wellness.

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- Benefits of exercise and proper nutrition.
- Effective time and personal financial management skills.

Training materials, curriculum, and attendance records should be forwarded to the Administrative Lieutenant as appropriate for inclusion in training records.

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Attachments

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DA CJIS Incident Response Policy.docx

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San Joaquin County District Attorney

Incident Response Policy & Procedures

1. Purpose:

To establish a CJIS-compliant framework for identifying, reporting, analyzing, containing, eradicating, and recovering from information security and physical security incidents impacting Criminal Justice Information (CJI) and San Joaquin County DA IT resources.

2. Scope:

This policy applies to all DA Office personnel, contractors, vendors, and third parties with logical or physical access to DA IT systems or facilities handling CJI.

3. Definitions

Incident: Any attempted or actual unauthorized access, use, disclosure, modification, or destruction of information or interference with IT operations.

Breach: Incidents involving personally identifiable information (PII) or CJI resulting in unauthorized disclosure, acquisition, or loss.

Physical Intrusion Incident: Unauthorized attempts to gain access to DA IT facilities, equipment rooms, or restricted areas monitored by intrusion detection systems or visitor access logs

4. Roles & Responsibilities

IT Department (Incident Response Team – IRT):

Lead incident detection, analysis, containment, eradication, recovery, and reporting.

Maintain incident documentation and lessons learned reports.

Local Agency Security Officer (LASO):

Ensure compliance with CJIS and County policies, notify FBI CJIS ISO when required.

Supervisors & Managers:

Ensure employees promptly report incidents.

Enforce compliance and initiate corrective or disciplinary action if misconduct is identified.

All Employees:

Report suspected incidents within one (1) hour of discovery.

Cooperate with investigations and follow containment instructions.

5. Incident Categories

Logical/Technical Incidents: Malware, ransomware, phishing, unauthorized access, insider threats, denial of service, supply chain compromise.

Physical Incidents: Unauthorized facility entry, tampering with IT hardware, surveillance anomalies, or missing equipment.

Policy/Behavioral Incidents: Misuse of County equipment, violation of confidentiality, negligence, or misconduct as defined in the Employee Handbook

6. Incident Response Procedures

6.1 Preparation

Annual incident response training for IT staff, supervisors, and users.

Scenario-based exercises (tabletop, simulations) at least annually.

Security awareness training emphasizing CJI protection

6.2 Detection & Analysis

Sources: system monitoring, intrusion detection systems, physical access logs, employee reports, and audit reviews.

Validate incidents, classify severity, and escalate confirmed incidents to LASO and management.

6.3 Containment

Isolate affected systems or accounts.

Lock down physical access points during facility intrusion events.

Block malicious IPs, quarantine compromised devices, disable affected credentials.

6.4 Eradication

Remove malicious code, disable compromised accounts, or revoke unauthorized physical access credentials.

Coordinate with HR and law enforcement if insider misconduct is suspected.

6.5 Recovery

Restore systems from clean backups.

Monitor for recurrence.

Verify that security controls are re-applied before resuming normal operations.

6.6 Post-Incident Review

Conduct a lessons-learned meeting within 10 business days.

Update playbooks, policies, and training based on findings.

Submit final incident report to LASO, County Counsel, and CJIS ISO if applicable.

7. Reporting Requirements

Initial suspected incident reports must be submitted within one (1) hour.

Confirmed incidents involving CJI/PII must be reported to the FBI CJIS ISO, State CSO, and County CIO.

Physical security incidents must be reported to County Facilities and DA Security Team for investigation.

8. Enforcement

Violations of this policy, including failure to report incidents, may result in disciplinary action up to and including termination.

9. Review & Maintenance

Policy reviewed annually or after any major incident.

Updated copies distributed to all employees with security responsibilities.

Policy changes communicated via DA Office-wide notices and mandatory staff meetings.

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.

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

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: _____

SUPPLEMENTAL HATE CRIME REPORT

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

Index/Topics

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