

# San Bernardino County District Attorney's Bureau of Investigation

SBCDA Bureau of Investigation Policy Manual

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## **CHIEF'S PREFACE**

As the Chief Investigator, I am honored to serve with such a strong group of professionals who re-commit themselves daily to serving the County of San Bernardino with honor, pride and dignity.

To assist all of us in maintaining the highest of standards, the Bureau has retained the expert services of Lexipol to provide guidance and recommendations on the latest, most up to date laws and best practices in the form of a new manual.

This policy manual is the ongoing product of changing laws, practices and procedures that are integral to providing guidance and direction to all Bureau of Investigation personnel. The efficiency of this law enforcement agency depends largely on the conduct and orderly disciplined performance of its employees and the leadership of the Bureau is charged with ensuring that the performance of all members, including ourselves, follow these established guidelines.

With the Bureau adopting the Lexipol system, you can be assured that our policy manual is current with applicable state and federal laws and law enforcement best practices. This manual is not a substitute for critical thinking and good judgment. No written guidance document can anticipate the entire range of human behaviors that employees might encounter daily. Therefore, we provide this document along with current training, mentoring and responsive supervision to guide our employees in making the right decisions to properly represent the Bureau in a positive manner while representing the District Attorney's Office and those we serve. Please refer to the District Attorney's Office Policy Manual, the County Personnel Rules, and the County Policy Manual for additional guidance. If you are unable to locate the information you are seeking, please contact your supervisor.

The standards of conduct to which we hold ourselves responsible, as outlined herein, govern not only the aspects of our day-to-day operations, but also form the foundation of our professional service and accountability to members of the public. With this full revision to our existing policy manual we continue an ongoing process of advancement and growth as a professional law enforcement organization and re-affirm our commitment of service to those in need.

Thank you for the opportunity to serve alongside each of you.

Eric Hopley

# San Bernardino County District Attorney's Bureau of Investigation

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## **MISSION STATEMENT / VALUES**

### **MISSION STATEMENT**

The District Attorney's Bureau of Investigation is committed to providing quality and responsive investigative services to prosecutors, our community, and all those serving throughout the criminal justice system.

### **VALUES**

We value and respect the ideas and opinions of our employees and our community.

While accomplishing our mission, Bureau members maintain exemplary professional standards and customer service.

We hold ourselves accountable to the principles of the mission of the Bureau of Investigation.

We accomplish our responsibilities through the fair and courteous treatment of others.

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## **Chapter 1 - Law Enforcement Role and Authority**

## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

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

### 100.2 POLICY

It is the policy of the San Bernardino County District Attorney's Bureau of Investigation to limit its employees to only exercise the authority granted to them by law.

While this Bureau of Investigation 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. The Bureau of Investigation does not tolerate the abuse of law enforcement authority.

### 100.3 INVESTIGATIVE RESPONSIBILITY

The Bureau of Investigation is charged with general responsibility for conducting investigations at the direction of the District Attorney, and as the investigative arm of the legal staff. The Office of the District Attorney was created by Article XI, Section 5 of the California Constitution in 1849. The duties of a district attorney are imposed by Government Code § 26500 through 26525.

#### 100.3.1 PRIMARY DUTIES

Assisting the deputy district attorney with properly preparing a case for court proceedings is a primary responsibility of Bureau of Investigation employees. This may require investigation that is supplemental to a police or sheriff investigation. A pre-trial investigation is generally opened when there is need for further investigation to adequately prepare for trial. During an actual trial, additional investigation may be necessary due to a new facet of the case being brought to light during trial testimony.

#### 100.3.2 DISCRETIONARY INVESTIGATIONS

The Bureau of Investigation's specialized units typically become involved in or initiate the investigation of activities related to public integrity, complex fraud, and other more involved crimes occurring within this jurisdiction. Investigations arising out of the abuse of judicial process such as perjury, witness intimidation, falsification of evidence, and conspiracy to obstruct justice may be referred to the District Attorney by judges in whose court the offense was committed. Also included are bribery and California Election Code violations requiring the gathering of sufficient evidence to prove the crime has been committed by a litigant in court, a public official or a well known public figure.

#### 100.3.3 ORGANIZED CRIME

The Bureau of Investigation may assist with analysis of information about subjects involved in organized crime in the County. The District Attorney must be kept informed of any filtration of organized crime into the County and its affect on local law enforcement. If evidence of prosecutable



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crimes is obtained, such evidence should be pursued or turned over to the proper law enforcement agency for further investigation.

#### 100.3.4 COOPERATIVE INVESTIGATION

It is the policy of the District Attorney to provide whatever investigative or technical assistance possible when so requested by other law enforcement or prosecutorial agencies.

#### 100.3.5 GRAND JURY

The Bureau of Investigation will provide investigative assistance to the grand jury as requested through the District Attorney. All information and evidence collected during an investigation must be considered confidential.

### **100.4 PEACE OFFICER POWERS**

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

#### 100.4.1 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE SAN BERNARDINO COUNTY DISTRICT ATTORNEY'S BUREAU OF INVESTIGATION

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

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

#### 100.4.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE SAN BERNARDINO COUNTY DISTRICT ATTORNEY'S BUREAU OF INVESTIGATION

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

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

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### *Law Enforcement Authority*

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- (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 of Investigation except in cases of hot or fresh pursuit, while following up on crimes committed within the County, or while assisting another agency.

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

#### **100.4.3 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).

#### **100.4.4 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):

- (a) The arrest is made without a warrant pursuant to Penal Code § 836 which includes:
  - 1. A misdemeanor committed in the presence of the investigator.
  - 2. Misdemeanor domestic violence offenses (See the Domestic Violence Policy).
- (b) The arrest is made in a public place.
- (c) The arrest is made with the person in custody pursuant to another lawful arrest.
- (d) The arrest is made pursuant to a warrant which, for good cause shown, directs that it may be served at any time of the day or night.

#### **100.5 INTERSTATE PEACE OFFICER POWERS**

Peace officer powers may be extended to other states:

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

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

## *Law Enforcement Authority*

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### **100.6 CONSTITUTIONAL REQUIREMENTS**

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

## Chief Investigator

### 101.1 PURPOSE AND SCOPE

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

#### 101.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

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

## Oath of Office

### 102.1 PURPOSE AND SCOPE

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

### 102.2 POLICY

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

### 102.3 OATH OF OFFICE

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

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

### 102.4 MAINTENANCE OF RECORDS

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

## Law Enforcement Code of Ethics

### 103.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that all Bureau of Investigation employees are aware of their individual responsibilities to maintain their integrity and that of their Bureau of Investigation at all times.

### 103.2 POLICY

The Law Enforcement Code of Ethics shall be made available to all Bureau of Investigation employees.

### 103.3 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 of Investigation. 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.

#### 103.3.1 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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# Policy Manual

## 104.1 PURPOSE AND SCOPE

The manual of the San Bernardino County District Attorney's Bureau of Investigation 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 of Investigation. All employees 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. When a County Personnel Rule, County Policy or provision of a Memorandum of Understanding conflicts with this manual, the former shall take precedence.

## 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 employees of this Bureau of Investigation 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 Bernardino County District Attorney's Bureau of Investigation and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the County, its officials or employees. Violations of any provision of any policy contained within this manual shall only form the basis for Bureau of Investigation administrative action, training or discipline. The San Bernardino County District Attorney's Bureau of Investigation 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 General Orders, which shall modify those provisions of the manual to which they pertain. General Orders shall remain in effect until such time as they may be permanently incorporated into the manual.

## *Policy Manual*

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### **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.

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

**CHP**- The California Highway Patrol.

**CFR** - Code of Federal Regulations.

**County** - The County of San Bernardino.

**Professional staff** - Employees who are not sworn peace officers.

**Bureau of Investigation** - The San Bernardino County District Attorney's Bureau of Investigation.

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

**Employee** - Any person employed by the Bureau of Investigation, including:

- Full- and part-time employees
- Sworn peace officers
- Investigative Technicians
- Multimedia Coordinators
- Office Assistants

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

**Manual** - The San Bernardino County District Attorney's Bureau of Investigation Policy Manual.

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

**Investigator** - Those employees, regardless of rank, who are sworn peace officers of the San Bernardino County District Attorney's Bureau of Investigation. (PC § 830.1)

**On-duty** - An employee's status during the period when he/she is actually engaged in the performance of his/her assigned duties, during work hours approved by a supervisor.

**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 a member.

**Shall or will** - Indicates a mandatory action.

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

**Supervisor** - A person in a position of authority who directs Bureau of Investigation work of other employees. When the Supervising Investigator of a unit is unavailable, a Senior Investigator may



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be identified as the "primary point of contact" for the unit. If a supervisor is required, any other Supervising Investigator may be called upon.

**USC** - United States Code.

### **104.5 ISSUING THE POLICY MANUAL**

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

Each employee shall acknowledge that he/she has been provided access to, and has had the opportunity to review the Policy Manual and General Orders. Employees 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 employee on or before the date the policy becomes effective. Each employee will be required to acknowledge that he/she has reviewed the revisions and shall seek clarification from an appropriate supervisor as needed.

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

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

All Bureau of Investigation employees suggesting revision of the contents of the Policy Manual shall forward their written suggestions, via the chain of command, to their Commanders, who will consider the recommendations and forward them to the Chief Investigator as appropriate.

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

## Organizational Structure and Responsibility

### 200.1 PURPOSE AND SCOPE

The organizational structure of the Bureau of Investigation 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 responsible for administering and managing the San Bernardino County District Attorney's Bureau of Investigation. There are two primary divisions in the Bureau of Investigation as follows:

- Specialized Prosecution Division
- Trial Preparation Division

#### 200.2.1 SPECIALIZED PROSECUTION DIVISION

The Specialized Prosecution Division is generally managed by a Commander, who also manages the Bureau of Investigation's fleet, equipment, training and manuals.

#### 200.2.2 TRIAL PREPARATION DIVISION

The Trial Preparation Division is managed by a Commander, who also manages the Special Investigations Unit (SIU), Special Response Team (SRT), TLO Investigators, Officer-Involved Shooting Response Team, and safety and security for the District Attorney's Office.

### 200.3 COMMAND PROTOCOL

#### 200.3.1 SUCCESSION OF COMMAND

The Chief Investigator exercises command over all personnel in the Bureau of Investigation. During planned absences the Chief Investigator may elect to designate the Assistant Chief Investigator to serve as the acting Chief Investigator.

#### 200.3.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the Bureau of Investigation. 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., SRT, TLO), any supervisor may temporarily direct any subordinate if an operational necessity exists.

#### 200.3.3 ORDERS

Employees shall respond to and make a good faith and reasonable effort to comply with the lawful order of superior officers and other proper authority. An employee receiving an unlawful order shall not obey the order but instead point out the unlawfulness to the superior for the purpose of receiving alternative orders. Failure to comply with a lawful order shall be deemed insubordination.

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Disregarding the authority of a supervisor or disputing a lawful order is also insubordination. Insubordination may be cause for discipline, up to and including termination.

When an employee has been given conflicting orders, the supervisor giving the second order has the authority to direct the sequence in which the orders will be accomplished.

An employee may appeal a lawful order but shall first obey the order. The appeal is to be made in writing to the Chief Investigator or designee via the chain of command. All circumstances must be stated in the appeal. Appeals involving the disciplinary process are regulated by the Peace Officers Bill of Rights (POBR), County Personnel Rules and/or the employee's MOU, and as such, these governing documents should be consulted for additional direction.

### 200.3.4 CHAIN OF COMMAND

As a matter of practice, employees shall generally direct communication through their supervisor who will forward this communication up the chain of command when necessary .

The Chief Investigator reports directly to the elected District Attorney. As the highest-ranking official in the Bureau of Investigation, the Chief Investigator is the appointing authority for Bureau of Investigation employees. Next in progression is the rank of Assistant Chief Investigator. The Assistant Chief Investigator answers to the Chief Investigator. Commanders answer to the Assistant Chief Investigator. Supervising Investigators answer to a Commander. Senior Investigators, Investigators, and professional staff (non-sworn employees) assigned to the Bureau of Investigation (Investigative Technicians, Multimedia Coordinator and Office Assistant IVs, excluding the Chief Investigator's Executive Secretary) answer to either a Commander or a Supervising Investigator. The Chief Investigator's Executive Secretary reports directly to the Chief Investigator.

Managers are expected to be approachable and maintain an "open door" policy. This means any Bureau of Investigation employee, regardless of rank, title or employment duration, may meet or discuss matters with any level of supervisor or manager in the organization. Employees are encouraged to resolve work-related issues by speaking directly with their supervisor. Employees may notify the supervisor of their desire to seek redress with their supervisor's manager when mutual issues cannot be resolved at their level.

## General Orders

### 201.1 PURPOSE AND SCOPE

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

#### 201.1.1 GENERAL ORDER PROTOCOL

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

Any General Orders 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, 18-01 signifies the first General Order for the year 2018.

### 201.2 RESPONSIBILITIES

#### 201.2.1 CHIEF INVESTIGATOR

The Chief Investigator shall issue all General Orders. The Chief Investigator shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by a General Order.

### 201.3 ACCEPTANCE OF GENERAL ORDERS

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

## Emergency Operations Plan

### 202.1 PURPOSE AND SCOPE

The San Bernardino County District Attorney's Office has prepared a Department Emergency Operations Plan (DEOP) for use by all employees in the event of a major disaster or other emergency event. This plan provides for a strategic response by all employees and assigns specific responsibilities in the event that the plan is activated (Government Code § 8610). The Office has also prepared Emergency Action Plans for each office location.

### 202.2 ACTIVATING THE EMERGENCY PLANS

The Department Emergency Operations Plan (DEOP) may be activated on the order of the District Attorney or designee. The Emergency Action Plans for the affected office locations shall also be followed.

#### 202.2.1 RECALL OF PERSONNEL

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

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

### 202.3 LOCATION OF THE PLANS

The Department Emergency Operations Plan and the Emergency Action Plans are available on STARnet. All supervisors should familiarize themselves with these plans. The Commander assigned to oversee District Attorney's Office safety and security should ensure that Bureau of Investigation personnel are familiar with the roles personnel will play when the plan is implemented.

### 202.4 UPDATING OF PLANS

The Chief Investigator or designee shall review and update the DEOP and Emergency Action Plans annually, per County Policy 13-01 - Department Emergency Operations Plans, and to ensure that the plans conform to any revisions made by the National Incident Management System (NIMS) and the Standardized Emergency Management System (SEMS).

## Training Policy

### 203.1 PURPOSE AND SCOPE

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

### 203.2 PHILOSOPHY

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

### 203.3 OBJECTIVES

The objectives of the Training Program are to:

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

### 203.4 TRAINING CATEGORIES

All training will be categorized in one of two ways:

- (a) MANDATORY - Required by POST.
- (b) DESIRABLE - Not mandated by law or POST but desirable for an assigned position or unit. This includes courses, seminars and conferences.

Generally, the training listed as mandatory or desirable should be completed before training that is not listed.

#### 203.4.1 TRAINING BY RANK

- A. Chief Investigator
  - 1. Mandatory
    - (a) POST Executive Course
    - (b) POST Management Course
  - 2. Desirable
    - (a) POST Command College
    - (b) FBI National Academy

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- (c) Media Relations
  - (d) Management Leadership Academy (MLA/SBCO)
  - (e) FBI-LEEDA Executive Leadership Institute Course
- B. Assistant Chief Investigator and Commander
  - 1. Mandatory
    - (a) POST Management Course
  - 2. Desirable
    - (a) FBI National Academy
    - (b) Media Relations
    - (c) Management Leadership Academy (MLA/SBCO)
    - (d) FBI-LEEDA Command Leadership Institute Course
    - (e) POST Executive Course
- C. Supervising Investigator
  - 1. Mandatory
    - (a) POST Supervisory School (80 hours)
    - (b) Fundamentals of Supervision (San Bernardino County)
  - 2. Desirable
    - (a) Officer Involved Shooting
    - (b) Internal Affairs Investigation
    - (c) Supervisory Leadership Institute (SLI)
    - (d) Case Management
    - (e) Legal Updates
    - (f) FBI-LEEDA Trilogy Courses
    - (g) Media Relations
    - (h) Management Leadership Academy (MLA/SBCO)
- D. Senior Investigator and Investigator
  - 1. Mandatory
    - (a) POST District Attorney Investigator School
    - (b) ICI Detective Course (for Investigator rank only)
    - (c) All law enforcement computer databases used
  - 2. Desirable
    - (a) Advanced Criminal Investigation



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- (b) Crime Scene Investigation
  - (c) Homicide Investigation
  - (d) Robbery Investigation
  - (e) Gang Investigation
  - (f) Economic Crime Investigation
  - (g) Sexual Assault Investigation
  - (h) Domestic Violence Investigation
  - (i) Internet Investigations
  - (j) Interview and Interrogation / Behavioral Analysis
  - (k) Informant Development and Maintenance
  - (l) Effective Communication
- E. Investigative Technician II
- 1. Mandatory
    - (a) Computer skills: Word, Excel, PowerPoint and internet
    - (b) All law enforcement computer databases used
    - (c) OC spray
    - (d) Evidence collection, processing, booking and retention
    - (e) Photography and video
  - 2. Desirable
    - (a) Reporting writing
    - (b) Courtroom testimony
    - (c) Effective Communication
    - (d) PowerPoint
    - (e) Evidence collection, processing, booking and retention
    - (f) Photography / Video
    - (g) Search warrant procedures
    - (h) Graphics
    - (i) Defensive Driving
- F. Investigative Technician III
- 1. Mandatory
    - (a) Computer skills: Word, Excel, PowerPoint and internet
    - (b) All law enforcement computer databases used

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- (c) OC spray
  - (d) Evidence collection, processing, booking and retention
  - (e) Photography and video
  - (f) Reporting writing
  - (g) Courtroom testimony
  - (h) Effective Communication
  - (i) PowerPoint
  - (j) Evidence collection, processing, booking and retention
  - (k) Photography / Video
  - (l) Search warrant procedures
  - (m) Graphics
  - (n) Defensive Driving
- G. Office Assistant IV
- 1. Mandatory
    - (a) All law enforcement computer databases used
  - 2. Desirable
    - (a) Word processing (Word)
    - (b) Spreadsheets (Excel)
    - (c) Effective Communication
    - (d) Records Management

### 203.4.2 TRAINING FOR SPECIALIZED UNIT ASSIGNMENTS

Unless otherwise noted, the courses listed below are desirable for investigators in addition to the core courses listed for Senior Investigator and Investigator.

- A. Family Violence
  - 1. Missing and Exploited Children Investigation
  - 2. Stalking Investigation
  - 3. Elder Abuse Investigation
  - 4. Human Trafficking Investigation
- B. Gang
  - 1. CalWRAP
  - 2. Gang Investigation
  - 3. Narcotics Investigation

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4. Missing Persons Investigation
5. Surveillance and Electronic Surveillance
- C. Auto Insurance Fraud / Workers Compensation Fraud
  1. Economic Crimes
  2. Financial Forensics Investigation
  3. Fraud / Forgery Investigation
- D. Real Estate Fraud
  1. Real Estate Fraud
  2. Asset Forfeiture
  3. Financial Forensics Investigation
  4. Fraud / Forgery Investigation
  5. Elder Abuse Investigation
- E. Child Abduction
  1. Child Abduction Investigation
  2. Missing and Exploited Children Investigation
- F. Public Integrity
  1. Public Corruption
  2. Fraud / Forgery Investigation
- G. Consumer Fraud / Special Prosecutions
  1. Hazardous Material Investigation
  2. Consumer Affairs Investigation
  3. Economic Crimes Investigation
  4. Financial Forensics Investigation
- H. Auto Theft (SANCATT)
  1. Auto Theft Investigation
  2. Automated License Plate Recognition (ALPR)
  3. Infotainment Vehicle Forensics
  4. Advanced Search Warrant and Execution
- I. Firearms Instructor / Rangemaster
  1. Mandatory
    - (a) Firearms Instructor - P.O.S.T.
  2. Desirable

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- (a) Instructor Development
  - (b) MP-5 Submachine Gun Instructor
  - (c) Glock Armorer
  - (d) Remington 870 Shotgun Armorer
  - (e) Ruger Mini-14 Armorer
  - (f) Tactical Shotgun
  - (g) Tactical Carbine
  - (h) TASER
  - (i) Other relevant firearms courses
  - (j) First Aid
- J. Special Response Team
- 1. Mandatory
    - (a) Dignitary Protection
  - 2. Desirable
    - (a) Threat Assessment
    - (b) MP-5 Operator
    - (c) Advanced Handgun
    - (d) Witness Protection
    - (e) First Aid
- K. Terrorism Liaison Officer (TLO)
- 1. TLO course

### **203.5 TRAINING NEEDS ASSESSMENT**

The Commander assigned to oversee training should conduct an annual training-needs assessment of the Bureau of Investigation. The needs assessment will then be reviewed by the Chief Investigator. Upon approval by the Chief Investigator, the needs assessment will form the basis for training authorized during the fiscal year.

### **203.6 TRAINING COMMITTEE**

The Commander over training may establish a Training Committee, which will serve to assist with identifying training needs for the Bureau of Investigation.

The Training Committee shall be comprised of at least three members, with the chairperson being the Commander over training. Employees should be selected based on their post-incident evaluation and training needs assessment abilities. The Commander may remove or replace members of the committee at his/her discretion.

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The Training Committee should review certain incidents to determine whether training would likely improve future outcomes or reduce or prevent the recurrence of the undesirable issues related to the incident. Specific incidents the Training Committee should review include, but are not limited to:

- (a) Any incident involving the death or serious injury of an employee.
- (b) Incidents involving a high risk of death, serious injury or civil liability.
- (c) Incidents identified by a supervisor as appropriate to review to identify possible training needs.

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

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

### **203.7 TRAINING PROCEDURES**

- (a) The Bureau of Investigation Training Coordinator works at the direction of the Commander over training. The Training Coordinator is responsible for the following:
  - 1. Compliance with all legislative and Peace Officer Standards and Training (POST) mandates concerning training.
  - 2. Notify Bureau of Investigation employees and their supervisors when they need to attend training (other than regular trimester training). Sufficient notice shall be given to the employee to ensure attendance and completion of the training by the deadline.
  - 3. Maintain training records in a secure file and in a location separate from personnel records to allow for tracking, anticipation of training needs and audits. Training records are confidential and shall only be accessed by the Training Coordinator, a Commander, the Assistant Chief Investigator, or the Chief Investigator.
  - 4. Develop, coordinate and plan courses relevant to the mission of the Bureau of Investigation.
  - 5. Provide registration, reservations and logistical assistance (including course-related funds and per diem) for Bureau of Investigation employees assigned to attend a course or conference, and do so in the most cost effective manner.
  - 6. Identify training needs and deficiencies.
  - 7. Attend local (STARS) and state (POST/CAPTO) training meetings and conferences.

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8. Liaison with law enforcement agencies for training related issues.
- (b) When an employee wants to attend a training course, the employee shall complete a Training Request form, attach the flyer for the course and submit the request, via the chain of command, to his/her Commander for review and approval.
- (c) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:
  1. Court appearances
  2. First choice vacation
  3. Sick leave
  4. Physical limitations preventing the employee's participation.
  5. Emergency situations
- (d) When an employee is unable to attend mandatory training, that employee shall:
  1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training.
  2. Document his/her absence in a memorandum to his/her supervisor.
  3. Make arrangements through his/her supervisor and the Commander over training to attend the required training on an alternate date.

### **203.8 TRAINING EXPENSES AND REIMBURSEMENT REQUESTS**

Payment of training expenses and requests for reimbursement of training related expenses shall be in accordance with requirements set forth by the County's Auditor/Controller/Tax Collector Office.

### **203.9 RETURNING FROM TRAINING**

Each employee attending training shall complete the course evaluation form and give it to the Training Coordinator within the first week after they return to their assigned work location. Employee comments and critiques will be used to evaluate the course and course provider. Evaluations are not required for ongoing trimester training attended by Investigators.

A photocopy scan of any certificate an employee receives shall be sent to the Training Coordinator and will be placed in the employee's department training file. The employee shall personally retain the original certificate.

The employee may be required to provide a synopsis of the training information at a later date. This may need to be accomplished in writing, by presenting at a unit meeting or by presenting as part of in-house training attended by other employees.

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#### **203.10 DAILY TRAINING BULLETINS**

The Lexipol Daily Training Bulletin (DTB) is a web-accessed system that provides training on the San Bernardino County District Attorney's Bureau of Investigation 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 Commander over training.

Personnel assigned to participate in DTBs should only use the password and login name assigned to them. 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 of Investigation.

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

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

## Electronic Mail

### 204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the Office's electronic mail (email) system by employees of this Bureau of Investigation. 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, County Policy 09-01 and current law (e.g., California Public Records Act). Messages transmitted over the email system should 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 of Investigation.

See attachment: [County Policy Section 09 - Email-Telephone-Internet-Computer Systems.pdf](#)

### 204.2 EMAIL RIGHT OF PRIVACY

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

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

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

### 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 of Investigation or the entire Office are only to be used for official business related items that are of particular interest to all users. The Chief Investigator or designee may require that email containing certain information be approved before dissemination. Personal advertisements are not acceptable.

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



## **Administrative Communications**

### **205.1 PURPOSE AND SCOPE**

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

### **205.2 MEMORANDUMS**

Memorandums 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 Bureau of Investigation are not misused, all external correspondence shall be on Bureau of Investigation letterhead. Personnel should use Bureau of Investigation letterhead only for official business and with approval of their supervisor.

## Chapter 3 - Operations

## Use of Force

### 300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every investigator of this Bureau of Investigation 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.

#### 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 investigator 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.

The Bureau of Investigation 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 training, monitoring, evaluation and a careful balancing of all interests.

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### 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 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 promptly report these observations to a supervisor as soon as feasible (Government Code § 7286(b)).

## **300.3 USE OF FORCE**

Investigators shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the investigator at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable investigator on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that investigators are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an investigator might encounter, investigators are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Investigators may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

It is also recognized that circumstances may arise in which investigators reasonably believe that it would be impractical or ineffective to use any of the approved tools, weapons, or methods provided by the Bureau of Investigation. Investigators may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

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

### 300.3.1 USE OF FORCE TO EFFECT AN ARREST

Any investigator may use reasonable force to effect an arrest, to prevent escape or to overcome resistance. An investigator 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

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### *Use of Force*

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the use of reasonable force to effect the arrest, prevent escape or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

#### 300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

- (a) The apparent immediacy and severity of the threat to investigators or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the investigator at the time (Penal Code § 835a).
- (c) Investigator/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of investigators available vs. subjects).
- (d) The conduct of the involved investigator leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with investigator commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.
- (l) Training and experience of the investigator.
- (m) Potential for injury to investigators, suspects, bystanders, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the investigator.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the investigator or others.
- (r) Prior contacts with the subject or awareness of any propensity for violence.
- (s) Any other exigent circumstances.

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#### 300.3.3 DUTY TO INTERCEDE

Any investigator present and observing another investigator using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. Before interceding, the investigator should take into account there may be a threat posed by the subject that is not apparent. An investigator who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

#### 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 of Investigation-approved training. If POST-approved training completed prior to Bureau of Investigation employment is being relied upon, the curriculum for that training course must meet current POST standards and not be in conflict with current training provided by SBCSD. Investigators utilizing any pain compliance technique should consider:

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

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

#### 300.3.5 RESTRICTIONS ON THE USE OF CAROTID CONTROL HOLD

Investigators of this Bureau of Investigation are not authorized to use a carotid restraint hold, except in situations where the use of deadly force is allowed by law. 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 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.

#### 300.3.7 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:

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

In addition, when reasonable, investigators should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)).

### **300.3.8 RESTRICTIONS ON THE USE OF A CHOKE HOLD**

Investigators of this Bureau of Investigation are not authorized to use a choke hold, except in situations where the use of deadly force is allowed by law. 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).

### **300.4 DEADLY FORCE APPLICATIONS**

Where feasible, the investigator shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the investigator has objectively reasonable grounds to believe the person is aware of those facts (Penal Code 835a).

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

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

- (a) An investigator may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the investigator or another person.
- (b) An investigator may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the investigator reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

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

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

### 300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and may involve additional considerations and risks. When feasible, investigators should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An investigator should only discharge a firearm at a moving vehicle or its occupants when the investigator reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the investigator or others (Government Code § 7286(b)).

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

### 300.4.2 DISPLAYING OF FIREARMS

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

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

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

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

Any use of force by an employee of the Bureau of Investigation 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 of Investigation may require the completion of additional report forms, as specified in Bureau of Investigation policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

### 300.5.1 NOTIFICATION TO SUPERVISORS

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



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- (a) The application caused a visible injury.
- (b) The application would lead a reasonable investigator to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.
- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a TASER device or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

### 300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

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

### **300.6 MEDICAL CONSIDERATION**

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 he/she can be medically assessed.

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

The on-scene supervisor or, if the on-scene supervisor is not available, the primary handling investigator shall ensure that any person providing medical care or receiving custody of a person following any use of force is informed that the person was subjected to force. This notification shall include a description of the force used and any other circumstances the investigator reasonably 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

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

#### **300.7 SUPERVISOR RESPONSIBILITY**

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

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

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.

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### **300.7.1 COMMANDER RESPONSIBILITY**

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

### **300.8 TRAINING**

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

The Commander over training should ensure that investigators receive periodic training on de-escalation tactics, including alternatives to force.

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

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.
- (b) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

### **300.9 USE OF FORCE ANALYSIS**

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

- (a) The identification of any trends in the use of force by employees.
- (b) Training needs recommendations.
- (c) Equipment needs recommendations.
- (d) Policy revision recommendations.

### **300.10 USE OF FORCE COMPLAINTS**

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

### **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)).

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### **300.13 PUBLIC RECORDS REQUESTS**

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

## Handcuffing and Restraints

### 301.1 PURPOSE AND SCOPE

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

### 301.2 POLICY

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

### 301.3 USE OF RESTRAINTS

Only employees who have successfully completed San Bernardino County District Attorney's Bureau of Investigation-approved training on the use of restraint devices described in this policy are authorized to use these devices. If POST-approved training completed prior to Bureau of Investigation employment is being relied upon, the curriculum for that training course must meet current POST standards and not be in conflict with current Bureau of Investigation-approved training.

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

- (a) The circumstances or crime leading to the arrest.
- (b) The demeanor and behavior of the arrested person.
- (c) The age and health of the person.
- (d) Whether the person is known to be pregnant.
- (e) Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- (f) Whether the person has any other apparent disability.
- (g) Whether the investigator has the ability to safely control multiple subjects.

#### 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.

### *Handcuffing and Restraints*

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#### 301.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist chains, or handcuffs behind the body should not be used unless the investigator has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, investigators, or others (Penal Code § 3407; Penal Code § 6030).

#### 301.3.3 RESTRAINT OF JUVENILES

Generally, 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. Refer to the Transport of Prisoners section below for additional guidance.

#### 301.3.4 NOTIFICATIONS

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

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

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety. Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Bureau of Investigation.

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. Whenever possible, a second law enforcement officer should be present when a subject is being arrested or handcuffed. Information regarding the double-locking of handcuffs should be included in a report.

In situations where one pair of handcuffs does not appear sufficient to restrain the individual 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.

Investigators shall carry at least one pair of handcuffs while on-duty, unless specifically authorized by the Chief Investigator or designee.

## *Handcuffing and Restraints*

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### **301.5 APPLICATION OF FACE MASKS**

Face masks are temporary protective devices designed to prevent the wearer from transferring or transmitting fluids (saliva and mucous) to others.

Face masks may be placed upon persons in custody when the investigator reasonably believes the person will spit, or the person may be infectious.

Investigators utilizing face masks should ensure that the face mask is placed over the person's mouth and nose properly to allow for adequate ventilation and so that the restrained person can breathe normally. Investigators should provide assistance during the movement of restrained individuals due to the potential for impaired or distorted vision on the part of the individual. Officers should avoid comingling individuals wearing face masks with other detainees.

Face masks 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 difficulty breathing or is vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a face mask, the face mask should be promptly removed then properly 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 face mask.

Those who have a face mask on should be continually monitored and shall not be left unattended until the face mask is removed. Face masks placed on arrestees or detainees shall be discarded after each use.

### **301.6 TRANSPORT OF PRISONERS**

All prisoners, including juveniles, transported by investigators from any custodial facility shall be restrained by ankle chains and cuffs in addition to handcuff restraints. Prisoners transported from a custodial facility shall not be brought to any office of the District Attorney without prior approval from a Supervising Investigator or investigator of higher rank. If the prisoner is to be interviewed or prepared as a witness, arrangements should instead be made for this to occur at a local law enforcement agency in order to provide a more secure setting.

Two investigators shall be utilized when transporting a prisoner in a vehicle without a cage. The prisoner shall be seated in the right rear passenger seat. The second investigator should be seated behind the driving investigator. If circumstances do not allow for this, the second investigator may be seated in the right front passenger seat.

Prisoners being transported by investigators shall always be properly restrained and wearing a seat belt.

The handcuffing and ankle cuffing of prisoners being transported by commercial means can be affected by the policies and procedures of the commercial carrier. Investigators shall take the necessary precautions to ensure their own safety and the safety of other citizens while complying with the commercial carrier's policies and procedures. If the policies and procedures of the carrier are restrictive to the point where they may cause undue risk to the safety of Investigators or the public, another carrier shall be sought.

## *Handcuffing and Restraints*

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### **301.7 APPLICATION OF AUXILIARY RESTRAINT DEVICES**

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

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

Investigators are to receive training on the proper use of restraint devices before using them.

### **301.8 RECOMMENDED DOCUMENTATION**

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

If an individual is arrested, the use of restraints other than handcuffs should be documented in the related report or paperwork. The investigator should include, as appropriate:

- (a) The amount of time the suspect was restrained.
- (b) How the suspect was transported and the position of the suspect.
- (c) Observations of the suspect's behavior and any signs of physiological problems.
- (d) Any known or suspected drug use or other medical problems.

### **301.9 TRAINING**

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



## Control Devices and Techniques

### 302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices and techniques 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 Bernardino County District Attorney's Bureau of Investigation authorizes investigators to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

### 302.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

Only investigators who have successfully completed Bureau of Investigation-approved training in the use of any control device are authorized to carry and use the device. If POST-approved training completed prior to Bureau of Investigation employment is being relied upon, the curriculum for that training course must meet current POST standards and not be in conflict with current Bureau of Investigation-approved training.

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.

Investigators shall carry a minimum of one of the following control devices while on-duty: baton, oleoresin capsicum (OC) spray or taser. Exceptions must be pre-approved by a Supervising Investigator. See below for additional information on batons and OC spray. Refer to the Conducted Energy Device policy for additional information on tasers.

### 302.4 RESPONSIBILITIES

#### 302.4.1 ASSISTANT CHIEF INVESTIGATOR RESPONSIBILITIES

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

### *Control Devices and Techniques*

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#### **302.4.2 RANGEMASTER RESPONSIBILITIES**

The Rangemaster, or designee approved by a Commander over training, shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

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

#### **302.4.3 USER RESPONSIBILITIES**

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

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

#### **302.5 BATON GUIDELINES**

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

When carrying a baton, investigators should do so in an inconspicuous manner, and concealed when possible.

Investigators are issued the Rapid Containment Baton (RCB), also known as a "Wilmoth" or "Winchester". An ASP expandable baton or personally owned RCB may be carried by an investigator after receiving written Chief Investigator approval, and must be properly maintained by the investigator.

#### **302.6 OLEORESIN CAPSICUM (OC) GUIDELINES**

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

##### **302.6.1 OC SPRAY**

Investigators carrying OC spray shall carry it in an approved holster, 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 spray 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.

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### **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 KINETIC ENERGY IMPACT WEAPONS**

The Bureau of Investigation maintains for use, the following kinetic energy impact weapons generally for members of the Special Response Team (SRT):

- (a) Def-Tek 40mm projectile launcher system,
- (b) Modified Remington 870 pump shotgun fitted with a yellow, orange or other highly visible color synthetic stock. The sole intended use of these shotguns is for firing bean bag ammunition. These shotguns shall be "parking lot loaded", and are generally issued to members assigned to SRT, SANCATT, Human Trafficking and others as deemed necessary by the Commander over SRT.

### **302.9 KINETIC ENERGY PROJECTILE GUIDELINES**

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

#### **302.9.1 DEPLOYMENT AND USE**

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

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

Only investigators who have received Bureau of Investigation-approved training may deploy and use these munitions. If POST-approved training completed prior to Bureau of Investigation employment is being relied upon, the curriculum for that training course must meet current POST standards and not be in conflict with current Bureau of Investigation-approved training.

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

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

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

### 302.9.2 DEPLOYMENT CONSIDERATIONS

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

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

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of investigators or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other investigators and individuals that the device is being deployed. The investigator providing the verbal warning should specify which device is being used rather than just stating, "Less lethal."

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

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

### 302.9.3 SAFETY PROCEDURES

Shotguns specifically designated for use with kinetic energy projectiles will be specially marked in a manner that makes them readily identifiable as such.

Investigators will inspect the shotgun and projectiles at the beginning of each day being worked to ensure that the shotgun is in proper working order and the projectiles are of the approved type and appear to be free from defects.

When it is not deployed, the shotgun will be unloaded and properly and securely stored in the vehicle. When deploying the kinetic energy projectile shotgun, the investigator shall visually inspect the kinetic energy projectiles to ensure that conventional ammunition is not being loaded into the shotgun.

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Absent compelling circumstances, investigators who must transition from conventional ammunition to kinetic energy projectiles shall employ the two-person rule for loading. The two-person rule is a safety measure in which a second investigator watches the unloading and loading process to ensure that the weapon is completely emptied of conventional ammunition.

### **302.10 TRAINING FOR CONTROL DEVICES**

The Commander 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.

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

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

## Conducted Energy Device

### 303.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of TASER devices.

### 303.2 POLICY

The TASER device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to investigators and suspects.

### 303.3 ISSUANCE AND CARRYING TASER DEVICES

Only investigators who have successfully completed Bureau of Investigation-approved training may be issued and carry the TASER device; currently the TASER X2 model.

Investigators shall only use the TASER device and cartridges that have been issued by the Bureau of Investigation. When investigators are wearing the TASER device they shall wear the device in an approved holster on their person. [REDACTED]

Investigators carrying the TASER device should perform a spark test on the unit prior to every shift.

When carried, investigators shall carry the TASER device in a Bureau of Investigation-approved holster on the side opposite the duty weapon.

- (a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Investigators shall ensure the TASER device is loaded with two cartridges.
- (c) Investigators shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.
- (d) Investigators should not hold both a firearm and the TASER device at the same time.
- (e) Investigators, during tactical operations or with the approval of their supervisor, may utilize an approved drop-down TASER leg holster.

Additional TASER devices may be secured in the firearms safes, located in each Bureau of Investigation trial preparation unit office. Investigators obtaining a TASER device from one of these safes shall complete the TASER log when retrieving and returning the TASER device. The supervisors having safes with extra TASER devices shall maintain the TASER logs.

### 303.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of 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.

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- (b) Provide other investigators and individuals with a warning that the TASER device may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with an investigator's lawful orders and it appears both reasonable and feasible under the circumstances, the investigator may display the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

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

### **303.5 USE OF THE TASER DEVICE**

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

#### **303.5.1 APPLICATION OF THE TASER DEVICE**

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the investigator at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm investigators, him/herself or others.

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

#### **303.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS**

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

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.

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- (e) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise close to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- (f) Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between investigators and the subject, thereby giving investigators time and distance to consider other force options or actions.

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

### 303.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the investigator to limit the application of the TASER device probes to a precise target area, investigators should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

### 303.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Investigators should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the TASER device against a single individual are generally not recommended and should be avoided unless the investigator reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the TASER device appears to be ineffective in gaining control of an individual, the investigator should consider certain factors before additional applications of the TASER device, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

Investigators should generally not intentionally apply more than one TASER device at a time against a single subject.



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### 303.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Investigators shall notify a supervisor of all TASER device discharges. Some confetti tags should be collected and submitted into evidence. The cartridge serial number should be noted and documented in the report.

### 303.5.6 DANGEROUS ANIMALS

The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

### 303.5.7 OFF-DUTY CONSIDERATIONS

Investigators are not authorized to carry Bureau of Investigation TASER devices while off-duty.

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

## **303.6 DOCUMENTATION**

Investigators shall document all TASER device discharges in the related arrest or crime report. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. When unintentional discharges, pointing the device at a person, laser activation and arcing the device in an effort to gain compliance occurs, the investigator shall notify a supervisor.

### 303.6.1 REPORTS

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

- (a) The cartridge serial number.
- (b) Date, time and location of the incident.
- (c) The approximate range at which the TASER device was used.
- (d) Location of probe impact and/or drive-stun.
- (e) Medical care provided to the subject.
- (f) Describe any additional injuries sustained by subject.
- (g) Describe any injuries sustained by other investigators.
- (h) Identification of all personnel firing TASER devices.
- (i) Identification of all witnesses.
- (j) Observations of the subject's physical and physiological actions.
- (k) 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 trained investigators or appropriate medical personnel should remove TASER device probes from a person's body. Used TASER device probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

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

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

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another investigator and/or medical personnel and shall be fully documented in related reports. If an audio 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 TASER device.

### **303.8 SUPERVISOR RESPONSIBILITIES**

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

A supervisor should review each incident where a person has been exposed to an activation of the TASER device. The device's onboard memory should be downloaded through the data port by a supervisor, Rangemaster or designee and saved with the related arrest or crime report. Photographs of probe sites should be taken and witnesses interviewed.

The supervisor shall complete a Use of Force report that is to include the following information:

- a. Subject's actions requiring the use of the TASER device .
- b. Effects on the subject..
- c. Names of all investigators and witnesses present.
- d. Number of cartridges fired, and the distance from the subject.
- e. Time required to subdue the subject.
- f. Clothing as a factor in the TASER device use.
- g. Medical attention provided to the subject or officers.

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### **303.9 TRAINING**

Personnel who are authorized to carry the TASER device shall be permitted to do so only after successfully completing the initial Bureau of Investigation-approved training.

Proficiency training for personnel who have been issued TASER devices should occur every year. A reassessment of an investigator's knowledge and/or practical skill may be required at any time if deemed appropriate by a Commander. All training and proficiency for TASER devices will be documented in the investigator's training file.

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

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

The Commander over training is responsible for ensuring that all investigators who carry TASER devices have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification.

The Commander over training should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing off-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER device.

### **303.10 TASER DATA**

The Commander over training will ensure each TASER issued by the Bureau of Investigation receives periodic maintenance, to include periodic data updating provided by the TASER manufacturer and uploading/downloading as needed or desired.

## 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 other 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 Bernardino County District Attorney's Bureau of Investigation 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

The San Bernardino County District Attorney's Bureau of Investigation has entered into a Memorandum of Agreement with the San Bernardino County Sheriff's Department (SBCSD), which states the SBCSD will handle the criminal investigation of the Bureau of Investigation's officer-involved shootings and deaths within the SBCSD's geographical responsibilities.

#### 304.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the SBCSD if the incident occurred in San Bernardino County. Otherwise, the investigation is controlled by the agency having law enforcement jurisdiction. The Chief Investigator may ask that the SBCSD seek control of the investigation from the agency having law enforcement jurisdiction.

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 law enforcement investigation. The criminal investigation may be conducted by the agency in control of the officer-

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involved shooting or death investigation, at the discretion of the Chief Investigator and with concurrence from the other agency.

### **304.4.2 CRIMINAL INVESTIGATION OF INVESTIGATOR ACTIONS**

The control of the criminal investigation into the involved investigator's conduct during the incident will be determined by Bureau of Investigation protocol. When an investigator from this Bureau of Investigation is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

Requests made of the Bureau of Investigation 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 SBCDA 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 of Investigation 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 SUPERVISING INVESTIGATOR RESPONSIBILITIES**

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

- (a) Attempt to obtain a brief overview of the situation from any uninvolved investigators or other uninvolved law enforcement officers.
- (b) The Supervising Investigator may administratively order any SBCDA 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

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scene, identity of known or potential witnesses and any other pertinent information.

- (c) Provide all available information to the appropriate Commander and the Communications Center.
- (d) If not already done so by the law enforcement agency with jurisdiction, take command of and secure the incident scene with additional Bureau of Investigation employees until properly relieved by another Supervising Investigator or other assigned personnel or investigator.
  - 1. If the law enforcement agency with jurisdiction has already taken control, offer assistance from Bureau of Investigation personnel.
- (e) As soon as practicable, ensure that involved investigators are transported (separately, if feasible) to a suitable location for further direction.
  - 1. Each involved SBCDA investigator should be given an administrative order not to discuss the incident with anyone other than his/her designated legal counsel pending further direction from a Supervising Investigator.
  - 2. When an involved investigator's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other investigators.

If no uninvolved Supervising Investigator is available, a Commander should respond to handle the duties mentioned above.

### 304.5.3 COMMANDER RESPONSIBILITIES

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

All outside inquiries about the incident shall be directed to the Assistant Chief Investigator or the Chief Investigator.

### 304.5.4 NOTIFICATIONS

When an officer-involved shooting or death occurs, follow the Critical Incident Notifications Guide for making notifications.



### 304.5.5 INVOLVED INVESTIGATORS

The following shall be considered for the involved investigator:

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

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- (b) Requests from involved officers from other agencies should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).
- (d) A licensed psychotherapist referral may be provided by the Bureau of Investigation to each involved SBCDA investigator. A licensed psychotherapist may also be provided to any other affected SBCDA employees, upon request. A contract for these services has been established.
  - (a) Interviews with a licensed psychotherapist will be considered privileged.
  - (b) An interview or session with a licensed psychotherapist may take place prior to the employee providing a formal interview or report. However, involved employees shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
  - (c) A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Peer Support members are cautioned against discussing the facts of any incident with an involved or witness investigator (Government Code § 8669.4).

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

Each involved SBCDA investigator shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Commander in that investigator's chain of command or designee to make schedule adjustments to accommodate such leave.

#### **304.6 CRIMINAL INVESTIGATION**

The SBCSD is responsible for the criminal investigation of any officer-involved shooting or death, occurring within the County, in which an investigator has some level of involvement.

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

- (a) Bureau of Investigation Supervising Investigators, Commanders and the Assistant Chief Investigator should not participate directly in any interview of SBCDA investigators. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.

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- (b) If requested, any involved investigator will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators (Government Code § 3303(i)). However, in order to maintain the integrity of each involved investigator's statement, involved investigators shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved investigator is physically, emotionally or otherwise not in a position to provide a statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the investigator to schedule an alternate time for the interview.
- (d) Any statement provided by an involved investigator will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the investigator consents.

### 304.6.1 REPORTS BY INVOLVED SBCDA INVESTIGATORS

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

Since the purpose of these reports will be to facilitate criminal prosecution, statements of involved investigators should focus on evidence to establish the elements of criminal activities by suspects. Care should be taken not to duplicate information provided by involved investigators in other reports.

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 INVESTIGATIVE PERSONNEL

SBCDA investigators may be asked to assist detectives from SBCSD and may be assigned to separately handle the investigation of any related crimes not being investigated by the SBCSD.

### 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 Supervising Investigator should offer to coordinate with criminal investigators to utilize available personnel for the following:

- (a) Identification of all persons present at the scene and in the immediate area.
  - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
  - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or



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

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

### **304.7 ADMINISTRATIVE INVESTIGATION**

In addition to all other investigations associated with an officer-involved shooting or death, the Bureau of Investigation will conduct an internal administrative investigation of SBCDA investigators to determine conformance with Bureau of Investigation policy. The investigation will be conducted under the supervision of the Assistant Chief Investigator, will be considered confidential, and will be conducted in compliance with the POBR and the California Government Code.

Interviews of employees shall be subject to Bureau of Investigation policies and applicable laws (see the Personnel Complaints Policy).

- (a) 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, when requested.
- (b) In the event that an involved investigator has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
  - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the investigator's physical and psychological needs have been addressed before commencing the interview.
  - 2. If requested, the investigator shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual investigator's statement, involved investigators shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
  - 3. Administrative interviews should be recorded by the administrative investigator. The 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 *Lybarger* or

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*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 Assistant Chief Investigator shall compile all relevant information and reports necessary for the Bureau of Investigation 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**

An investigator may be assigned to work exclusively under the direction of the legal counsel for the Bureau of Investigation 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 investigator involved in a shooting or death may be permitted to review available video or audio recordings prior to providing a verbal or written statement to criminal or administrative investigators, 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 mobile audio video (MAV), body-worn video, or other video or audio recordings with approval of assigned investigators or a supervisor.

Any 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 Bernardino County District Attorney's Bureau of Investigation should conduct both a critical incident/stress debriefing and a tactical debriefing.

#### **304.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING**

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

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

Attendance at the debriefing shall only include those employees of the Bureau of Investigation directly involved in the incident, which can include professional staff. Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other employees of the Bureau of Investigation, including supervisory personnel.

#### **304.10.2 TACTICAL DEBRIEFING**

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

#### **304.11 MEDIA RELATIONS**

Any media release shall be prepared by the District Attorney's Public Affairs Officer with input and concurrence from the District Attorney and the Chief Investigator, or their designees. Releases will be available in the event of inquiries from the media.

The Bureau of Investigation shall not subject any involved SBCDA investigator to visits by the media (Government Code § 3303(e)). No involved SBCDA investigator shall make any comment to the media unless he/she is authorized by the Chief Investigator or the Assistant Chief Investigator. Bureau of Investigation employees 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 involves San Bernardino County District Attorney's Bureau of Investigation personnel and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Assistant Chief Investigator will ensure that the Office's Appellate Division is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).

## Officer-Involved Shooting Response Team

### 305.1 PURPOSE AND SCOPE

This policy is established to provide guidelines for the Bureau of Investigation's response, as part of the District Attorney's Officer-Involved Shooting Response Team, to the scene of a qualifying use of deadly force by a peace officer.

### 305.2 POLICY

The policy of the Bureau of Investigation is to assist the District Attorney with conducting an independent review of all officer-involved shootings resulting in injury or death, and other uses of force by peace officers resulting in death within San Bernardino County. The review will include a district attorney investigator and a deputy district attorney responding to the scene of the incident.

When peace officers use deadly force, society expects that such force will occur only when prescribed by law. The public also has a right to expect that a complete and impartial examination of the circumstances will be conducted.

### 305.3 QUALIFYING INCIDENTS

The District Attorney has established a protocol for responding to lethal force incidents. The protocol applies when any of the following incidents occur *within San Bernardino County*:

- (a) A peace officer, on-duty or off-duty, during the scope and course of employment, shoots a firearm and injures or kills a person.
- (b) A person dies while in the custody or control of a peace officer or agency and force was used by a peace officer.
- (c) Any other lethal force encounters not listed above, if the submitting agency requests it and if the District Attorney or the Assistant District Attorney of Criminal Operations approves it.

See attachment: [OIS MOA 03-2020.pdf](#)

### 305.4 ORGANIZATION AND STRUCTURE

The Officer-Involved Shooting Response Team (OIS Team) is composed of investigators and deputy district attorneys. The Chief Investigator or designee will select the Supervising Investigator(s) who will be responsible for the coordination and response, and the overall effectiveness of investigators assigned to the team. The Supervising Investigator(s) will report directly to the assigned Commander unless directed otherwise by the Chief Investigator. Assignment to the team is considered a voluntary, part-time and ancillary duty.

#### 305.4.1 SUPERVISING INVESTIGATOR RESPONSIBILITIES

The Supervising Investigator(s) assigned to the team will be the primary point of contact for law enforcement agencies. After the on-call Supervising Investigator is notified by law enforcement personnel of a qualifying incident, he/she will immediately assign an investigator to respond. If

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the incident occurs during regular office hours, an on-call investigator will generally be assigned but any on-duty investigator assigned to the team may be called upon to respond to the incident scene. If the incident occurs after hours, an on-call investigator will be assigned to respond to the scene. The Supervising Investigator will also immediately notify the on-call deputy district attorney assigned to the OIS Team.

The Supervising Investigator involved in the call out will be expected to attend the briefing mentioned in the Investigator Responsibilities section.

### **305.4.2 INVESTIGATOR RESPONSIBILITIES**

Investigators will report directly to the Supervising Investigator(s) selected for this assignment. They will immediately make the appropriate Supervising Investigator aware of any conflict that cannot be resolved at the scene. The Supervising Investigator will facilitate a resolution with the other agency(s), involving the assigned Commander when necessary. As the investigation proceeds, the investigator will update the Supervising Investigator when appropriate.

Investigators will be expected to provide a summary briefing to management within three business days of the incident, or as soon as practical when extenuating circumstances exist. The investigator should also be present for the autopsy, if possible.

### **305.5 ATTIRE**

Investigators will wear a dress shirt, tie, dress slacks and dress shoes while involved in the investigation; with a suit coat or sport coat readily available. Generally, the Supervising Investigator(s) will not become directly involved in the investigation. If this occurs, they are expected to dress in the same manner. Any deviation shall be approved by the assigned Commander.

Investigators shall be readily identifiable as District Attorney Investigators, by displaying their photo identification. Investigators shall also wear the required on-duty safety equipment, as stated in this policy manual.

### **305.6 PERSONNEL STANDARDS AND SELECTION**

When vacant positions exist on the team, the assigned Commander, with input from the OIS Team Supervising Investigator(s), will present recommendations to the Assistant Chief Investigator and the Chief Investigator who will then select the investigator who will fill the vacancy.

Minimum standards for OIS Team members are as follows:

- (a) Completion of the first year of employment with the Bureau of Investigation in good standing (unless waived by the Chief Investigator).
- (b) Achieve an overall work performance evaluation rating of 'Meets Standards' or above for the most recent evaluation period.
  1. The continued participation of all team members is contingent upon their ability to maintain their caseload at their regular assignment. Team members who become involved in cases which require their uninterrupted attention, or who

## *Officer-Involved Shooting Response Team*

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are unable to manage their caseloads because of OIS Team demands, may be removed from the team.

- (a) Team members who are removed from the team because of demanding caseloads may be reinstated upon receipt of a memorandum from their supervisor indicating that the investigator's caseload has been brought to a manageable level, and his/her participation with the team would not adversely affect his/her regular duty assignment performance. Reinstatement may occur only when there is an opening on the team and after approval from the Chief Investigator.
- (c) The selection process will include an evaluation of the candidate's commitment, availability for assignments as needed, past employee evaluations, past/current work experience, peer review, and any input management feels is appropriate to select the best candidate.
- (d) Assignment to the team is voluntary, the Chief Investigator or designee may remove a team member without appeal or compensation.

### **305.7 TRAINING**

All team members shall attend training courses determined by the Chief Investigator or designee to be directly relevant and necessary for carrying out investigative duties as a member of the OIS Team.

### **305.8 ON-CALL**

OIS Team members, including the Supervising Investigators, will be on-call one week at a time. Each week, one Supervising Investigator and two investigators will be on-call. When an on-call investigator is notified of the need to respond to a qualifying incident, the investigator shall respond within one hour of being notified and arrive as soon as is practical.

On-call compensation will be based on the current relevant MOU.

Refer to the County Rules for additional guidance for on-call assignments.

## Firearms

### 306.1 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 employees who are authorized to carry firearms.

### 306.2 POLICY

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

### 306.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Investigators shall only use firearms that are issued or approved by the Bureau of Investigation and have been thoroughly inspected by a Rangemaster or designee. Except in an emergency or as directed by a Supervising Investigator, no firearm shall be carried by an investigator who has not qualified with that firearm at an authorized Bureau of Investigation range.

All other weapons not provided by the Bureau of Investigation, 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 of Investigation policy, may not be carried by investigators in the performance of their official duties without the express written authorization of the Assistant Chief Investigator. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

#### 306.3.1 DUTY HANDGUNS

The authorized Bureau of Investigation-issued duty handgun is the Glock 19 9mm. This handgun will be supplied with three magazines, a two-magazine pouch and a "Level 1" retention holster. Handguns not carried in the Bureau of Investigation issued holster shall be carried in a "Level 1" holster, at minimum. See the Personally Owned Duty Firearms section in this policy for information on personally owned handguns that may be carried as duty handguns.

Investigators shall carry an authorized and properly loaded duty handgun at all times while on-duty, along with at least one additional fully loaded magazine, unless specifically authorized by the Chief Investigator or designee. The duty handgun shall be carried in a holster secured from the waist

[REDACTED]

[REDACTED]

[REDACTED]

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██████████ A properly loaded duty handgun consists of a loaded, inserted magazine and a chambered round.

### 306.3.2 SHOTGUNS

The authorized Bureau of Investigation-issued shotgun is the Remington Model 870, 12-gauge pump action. These shotguns are not issued to all investigators.

An investigator may also carry a personally owned shotgun. All personally owned shotguns shall be approved by the Bureau of Investigation, then thoroughly inspected by an approved Rangemaster. Each shotgun shall be equipped with a sling approved by the Chief Investigator or designee. The sling must allow the investigator use of both hands when the shotgun is not needed.

When not deployed, the shotgun shall be properly secured ██████████  
██████████

### 306.3.3 RIFLES

The authorized Bureau of Investigation-issued rifle is the Ruger Mini 14 .223 for all investigators. The Colt M-4 5.56 NATO rifle or the Heckler and Koch MP-5 series 9mm select fire submachine gun are issued to Special Response Team members. An investigator may carry a personally owned semi-automatic Mini-14 rifle. An Investigator may also carry a personally owned Bushmaster, Smith & Wesson, LMT, DPMS or *equivalent* AR-15 or M-4 type semi-automatic rifle in 5.56 NATO caliber. All personally owned rifles must be approved by the Bureau of Investigation, then thoroughly inspected by an approved Rangemaster. For investigators issued a Mini-14 rifle, each rifle is issued with two 20-round or 30-round "Ruger" factory magazines. For investigators who wish to purchase their own additional magazines for the Mini-14, only "Ruger" factory magazines of 20- or 30-round capacity are authorized. All rifles are to be accompanied by a minimum of two magazines, each with a minimum 20-round capacity and maximum 30-round capacity. After-market magazines shall be approved by the Chief Investigator or designee. See the Personally Owned Duty Firearms section for additional information on personally owned rifles that may be carried.

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

- (a) Situations where the investigator reasonably anticipates an armed encounter.
- (b) When an investigator is faced with a situation that may require accurate and effective fire at long range.
- (c) Situations where an investigator reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When an investigator reasonably believes that there may be a need to fire on a barricaded person or a person with a hostage.
- (e) When an investigator reasonably believes that a suspect may be wearing body armor.
- (f) When authorized or requested by a Supervising Investigator.



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- (g) When needed to euthanize an animal.

Each rifle shall be equipped with a sling approved by the Chief Investigator or designee. The sling must allow the investigator use of both hands when the rifle is not needed.

When not deployed, the rifle shall be properly secured [REDACTED]  
[REDACTED]

### 306.3.4 PERSONALLY OWNED DUTY FIREARMS

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

- (a) The firearm shall be in good working order and be Bureau of Investigation approved.
- (b) The authorized calibers for handguns are 9mm, .357 SIG, .40 and the .45. The authorized caliber for rifles is 5.56 NATO.
- (c) Ammunition shall be the same as Bureau of Investigation issue, or ammunition SBCSD has been authorized to issue on behalf of the Bureau of Investigation.
- (d) The firearm and ammunition shall be inspected by the Rangemaster or designee prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (e) Prior to carrying the firearm, the investigator shall qualify under range supervision and thereafter shall qualify in accordance with the Bureau of Investigation qualification schedule. The investigator must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (f) The investigator may be required to supply all accessories.
- (g) Investigators shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster or designee, and the information will be maintained by the Chief Investigator's secretary.

### 306.3.5 AUTHORIZED ALTERNATE HANDGUN

Investigators desiring to carry a Bureau of Investigation or personally owned alternate handgun is subject to the following restrictions:

- (a) The handgun shall be a semi-automatic, in good working order and be Bureau of Investigation approved.
  - 1. The authorized calibers are 9mm,.357 SIG,.40 and.45.
- (b) A maximum of two alternate handguns is permitted.
- (c) A minimum of two magazines having no less than a six-round capacity each must be readily accessible.
- (d) The purchase and maintenance of the handgun shall be the responsibility of the investigator.

## Firearms

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- (e) The handgun shall be carried in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (f) The handgun shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (g) Ammunition shall be the same as Bureau of Investigation issue, or ammunition SBCSD has been authorized to issue on behalf of the Bureau of Investigation.
- (h) Prior to carrying the alternate handgun, investigators shall qualify under range supervision and thereafter shall qualify in accordance with the Bureau of Investigation qualification schedule. Investigators must demonstrate proficiency and safe handling, and that the handgun functions properly.
- (i) Investigators 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.

### 306.3.6 SECONDARY (BACK-UP) HANDGUN

Investigators desiring to carry a personally owned secondary (back-up) handgun are subject to the following restrictions:

- (a) The handgun shall be in good working order and be Bureau of Investigation approved.
- (b) The purchase and maintenance of the handgun, ammunition and accessories may be the responsibility of the investigator.
- (c) The handgun shall be carried in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (d) The handgun shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (e) Ammunition shall either be the same as Bureau of Investigation issue or the same ammunition SBCSD has been authorized to issue on behalf of the Bureau of Investigation. .380 ACP for a semi-automatic pistol or .38 Special for a revolver. It may be the investigator's responsibility to supply .380 ACP or .38 Special ammunition. FMJ ammunition is only to be used for practice and qualification purposes.
- (f) The minimum capacity of the firearm shall be five rounds.
- (g) Prior to carrying the handgun, investigators shall qualify under range supervision and thereafter shall qualify in accordance with the Bureau of Investigation qualification schedule. Investigators must demonstrate proficiency and safe handling, and that the handgun functions properly.
- (h) Investigators shall provide written notice of the make, model, color, serial number and caliber of a secondary (back-up) handgun to the Rangemaster or designee. This information will be maintained in the investigator's personnel file by the Chief Investigator's Executive Secretary.

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### 306.3.7 AUTHORIZED OFF-DUTY FIREARMS

The carrying of firearms by investigators while off-duty is not required but is encouraged. The Chief Investigator may suspend an investigator's permission to carry a loaded or concealed firearm should circumstances dictate (example - administrative leave). Investigators who choose to carry a firearm while off-duty, based on their authority as peace officers, will be required to meet the following guidelines:

- (a) The investigator may use his/her duty firearm or may use a personally owned alternate or secondary (back-up) firearm that is carried and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy. An investigator carrying his/her firearm will be deemed to have complied with (c), (d) and (e) of this section.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the investigator to submit the firearm to the Rangemaster for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Rangemaster.
- (d) Prior to carrying any off-duty firearm, the investigator shall demonstrate to the Rangemaster that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The investigator will successfully qualify with the firearm prior to it being carried.
- (f) Investigators shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.
- (g) If an investigator desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Investigators shall only carry Bureau of Investigation-authorized ammunition.
- (i) Investigators shall, at minimum, carry their Bureau of Investigation photo ID card at all times when armed. Investigators are encouraged to also carry their Bureau of Investigation badges.

### 306.3.8 AMMUNITION

Investigators shall carry only Bureau of Investigation-authorized ammunition. The SBCSD range staff are authorized to issue ammunition to investigators. Investigators shall be issued fresh duty ammunition once a year in the specified quantity for all Bureau of Investigation-issued firearms during the investigator's firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Bureau of Investigation shall be dispensed by the Rangemaster when needed, in accordance with established policy.

Investigators carrying personally owned authorized firearms of a caliber differing from Bureau of Investigation-issued firearms may be responsible for obtaining fresh ammunition in accordance with the above, at their own expense.

Full Metal Jacket (FMJ) ammunition is not authorized for duty use in sidearms or back-up/off-duty sidearms. FMJ ammunition may be used in specialized situations in 5.56 NATO rifles, such

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as a barricade or other situation requiring greater penetration than offered by Jacketed Hollow Point (JHP) or soft point ammunition. All ammunition carried by investigators on- or off-duty shall conform to this policy. Ammunition purchased or deployed by investigators shall be inspected and approved by the Rangemaster or authorized designee prior to being carried in the field.

### 306.3.9 FIREARMS CARRYING RESTRICTIONS

Investigators are restricted from carrying a firearm under the following conditions;

- (a) While under administrative suspension.
- (b) While either on- or off-duty after consuming an amount of an alcoholic beverage, taking any drugs or medication, or taking any combination thereof that would tend to adversely affect the investigator's senses or judgment.
- (c) When the investigator has failed to maintain current firearms qualification and no exemption has been granted by the Chief Investigator or designee.
- (d) Flying on commercial airlines without proper approval from the Chief Investigator and proper TSA authorization.

### 306.3.10 NON-SWORN EMPLOYEES CARRYING FIREARMS

Though professional staff (non-sworn employees) may possess a concealed weapons permit, per County policy and District Attorney's Office policy, they are not permitted to carry a firearm while on-duty or on County property.

## **306.4 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 investigator.

### 306.4.1 REPAIRS OR MODIFICATIONS

Each investigator shall promptly report any known damage or malfunction of an assigned firearm to a Supervising Investigator or the Rangemaster.

Firearms that are the property of the Bureau of Investigation or personally owned firearms that are approved for Bureau of Investigation use may be repaired or modified only by a person who is Bureau of Investigation-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. Minor changes, such as alternative weapon sights, weapon mounted sights or grip enhancements are not considered modifications.

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

### 306.4.2 HOLSTERS

Handguns shall be carried in a "Level 1" retention holster, at minimum. Any deviation shall be approved ahead of time by the Chief Investigator or designee. Bureau of Investigation-approved holsters shall be used and worn by investigators. Supervising Investigators shall periodically

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inspect the holsters of the investigators they supervise to make sure the holsters are serviceable and provide the proper security and retention of the handgun.

### 306.4.3 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 investigator shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it. If the mounting of a tactical light, purchased by the investigator, requires the use of a different holster, the purchase of a new holster is the responsibility of the investigator. The holster shall meet the requirements [REDACTED]

### 306.4.4 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 investigator shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it.

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

## 306.5 SAFE HANDLING, INSPECTION AND STORAGE

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

- (a) Investigators shall not unnecessarily display or handle any firearm.
- (b) Investigators shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Investigators shall not dry fire or practice quick draws except as instructed by the Rangemaster or other firearms training staff.
- (c) Investigators shall not clean, repair, load or unload a firearm anywhere in a District Attorney's Office facility.
  1. One exception is the Bureau of Investigation armory, where cleaning and repair are permitted.
- (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.
- (e) Investigators shall not place or store any firearm or other weapon on Bureau of Investigation 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.

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- (f) Investigators shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a Supervising Investigator.
- (g) Any firearm authorized by the Bureau of Investigation to be carried on- or off-duty that is determined by an investigator to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Bureau of Investigation Rangemaster or a Rangemaster approved by the Bureau of Investigation 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 investigator's primary duty firearm, a replacement firearm will be issued to the investigator until the duty firearm is serviceable.

#### 306.5.1 INSPECTION AND STORAGE

Firearms shall be regularly inspected. Investigators shall also inspect a firearm whenever taking possession of one. Inspection of shotguns and rifles shall be done while standing outside. All firearms shall be pointed in a safe direction or into clearing barrels.

Investigators are required to maintain their firearms in good operating condition. Their duty firearms [REDACTED] shall be examined, cleaned and/or oiled by the investigator at least every 3 months to ensure these tools are functioning properly.

#### 306.5.2 STORAGE AT HOME

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

#### 306.5.3 STORAGE IN VEHICLES

[REDACTED]  
[REDACTED] Under no circumstances will any firearm be left in an unsecured vehicle, office or other areas readily available to the public or non-sworn employees. Under no circumstances will any weapon (e.g. firearm, OC canister, impact device, TASER) remain in a vehicle that is left at any repair facility, tow company or County repair facility.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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

### **306.6 FIREARMS TRAINING AND QUALIFICATIONS**

All Investigators, Senior Investigators and Supervising Investigators who carry a firearm while on-duty are required to successfully complete trimester firearms training and qualification provided by the SBCSD. Investigators, Senior Investigators and Supervising Investigators will qualify with alternate duty firearms each trimester as well. Investigators, Senior Investigators and Supervising Investigators will qualify with secondary (back-up) firearms once per calendar year. Training and qualifications must be on an approved range course.

Trimester firearms training and qualification is also required for the Mini 14 (or AR-15, if the investigator has chosen to carry a personal rifle) and the Remington 870 shotgun. This helps investigators maintain weapons proficiency and familiarity for deployment in the event of a mutual aid or active shooter response.

It is each investigator's responsibility to become familiar with the range safety rules and the range procedures related to firearms handling, loading and unloading.

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

All sworn personnel above the rank of Supervising Investigator will qualify with any Bureau-issued firearms, alternate duty firearm and back-up firearm on at least an annual basis.

#### **306.6.1 NON-CERTIFICATION OR NON-QUALIFICATION**

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

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

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

Those who repeatedly fail to meet minimum standards will be removed from field work and may be subject to disciplinary action, up to and including dismissal.

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If an investigator's work status is characterized as "modified duty", due to an injury, the investigator is not automatically exempted from attending and, on some specified level, participating in trimester training. If for any reason an investigator is unable to participate in the firearms qualification, that investigator shall submit a memo to his/her immediate supervisor clearly stating the reason for not being able to attend. An investigator shall successfully complete the firearms qualification with an approved Rangemaster before returning to full-duty status.

Range qualification records are maintained by the SBCSD training staff and the Bureau of Investigation Administrative Technician.

### **306.7 FIREARM DISCHARGE**

Except during training or recreational use, any investigator 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 investigator shall adhere to the additional reporting requirements set forth in the Use of Force and Officer-Involved Shootings and Death policies.

In all other cases, written reports shall be made as follows and forwarded to the Chief Investigator, via the chain of command, without unnecessary delay:

- (a) If on-duty at the time of the incident, the investigator shall file a written report with his/her Commander, via the chain of command, 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, a written report shall be submitted or recorded statement provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a superior.

The investigator shall be truthful when making this report, and shall not provide misleading or incorrect information.

The investigator's supervisor shall, without delay, verbally notify the Chief Investigator, via the chain of command, of the incident. The Chief Investigator's designee shall personally investigate any firearms discharge or display of a firearm as directed by the Chief Investigator.

If the investigator who discharged the firearm is hospitalized, seriously injured, fatally injured, or incapable of filing the written report, the investigator's supervisor shall, as soon as practical, file as complete a report as possible to the Chief Investigator, via the chain of command.

#### **306.7.1 DESTRUCTION OF ANIMALS**

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



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

#### **306.7.2 INJURED ANIMALS**

With the approval of a supervisor (if available), an investigator 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 (if available), abandoned injured animals (with the exception of dogs and cats) may only be euthanized after a reasonable search to locate the owner has been made. Injured dogs and cats found without their owners shall be taken to an appropriate veterinarian for determination of whether they should be treated or humanely destroyed (Penal Code § 597.1).

#### **306.7.3 WARNING AND OTHER SHOTS**

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

#### **306.8 RANGEMASTER DUTIES**

Investigators who are Bureau-approved Rangemasters should be POST certified firearms instructors.

The range will be under the exclusive control of a Bureau-approved Rangemaster. All investigators will follow the directions of the Rangemaster. The Rangemaster will maintain a roster of all investigators attending a range training. For SBCSD led trimester training, the attendance roster and records of qualification will be maintained by the SBCSD training staff. Failure of any investigator to sign in and out (when required) with the Rangemaster may result in non-qualification.

Range accessibility for use by investigators, other than for SBCSD led trimester training, is established by the SBCSD Rangemaster.

The Commander of Specialized Prosecution or designee has the responsibility of ensuring periodic inspection of all firearms and holsters carried by investigators to verify proper operation, as needed. The Commander of Specialized Prosecution or designee has the authority to deem any Bureau of Investigation-issued or personally owned firearm unfit for service. The investigator will be responsible for all repairs to his/her personally owned firearm and it will not be returned to service until inspected by a Rangemaster or designee.

## *Firearms*

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The Rangemaster or designee has the responsibility for ensuring each investigator meets the minimum requirements during training shoots and can demonstrate proficiency in the care, cleaning and safety of all firearms the investigator is authorized to carry.

For training coordinated by the Bureau of Investigation, with the exception of trimester training (SBCSD), documentation should be submitted that includes the qualifications of each instructor who provides the training, and a description of the training provided. A list of investigators who complete the training shall be submitted on a Bureau of Investigation approved form. The Commander of Specialized Prosecution or designee should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records. Investigators shall complete and submit to the Commander or designee documentation of training courses completed.

Brand, model, caliber and serial number information of all firearms carried on- or off-duty, whether personally owned or issued by the Bureau of Investigation, will be recorded with the Commander of Specialized Prosecution.

### **306.9 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 of Investigation based on the law and published TSA rules.
- (b) Investigators must carry their San Bernardino County District Attorney's Bureau of Investigation identification card, bearing the investigator's name and a full-face photograph, the official seal of the San Bernardino County District Attorney's Bureau of Investigation, and must present this identification to airline officials when requested. The investigator shall also carry his/her Bureau of Investigation badge and standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).
- (c) The San Bernardino County District Attorney's Bureau of Investigation must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the investigator's travel. If approved, TSA will send the San Bernardino County District Attorney's Bureau of Investigation an NLETS message containing a unique alphanumeric identifier. The investigator must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief Investigator authorizing armed travel may also accompany the investigator. The letter should outline the investigators 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.

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- (e) Investigators must have completed the mandated TSA security training covering investigator flying while armed. The training shall be given by the Bureau of Investigation-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.

### **306.10 CARRYING FIREARMS OUT OF STATE**

Qualified, active, full-time investigators of this Bureau of Investigation 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 Bernardino County District Attorney's Bureau of Investigation photo identification card whenever carrying such firearm.
- (b) The investigator is not the subject of any current disciplinary action.
- (c) The firearms shall not be carried by any investigator, either on- or off-duty, who has consumed an amount of an alcoholic beverage, has taken any drugs or medication, or has taken any combination thereof that would tend to adversely affect the investigator's senses or judgment.
- (d) The investigator will remain subject to this and all other Bureau of Investigation 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.

## Vehicle Pursuits

### 307.1 PURPOSE AND SCOPE

This policy provides guidelines for vehicle pursuits in order to protect the safety of involved investigators, the public, and fleeing suspects.

#### 307.1.1 VEHICLE PURSUIT DEFINED

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

### 307.2 INVESTIGATOR RESPONSIBILITIES

Vehicle pursuits shall only be conducted using emergency vehicles that are equipped with and displaying emergency lighting and sirens as required by Vehicle Code § 21055. Investigators are responsible for continuously driving with due regard and caution for the safety of all persons and property (Vehicle Code § 21056).

#### 307.2.1 WHEN TO INITIATE A PURSUIT

An investigator is authorized to initiate a pursuit when the investigator reasonably believes that a suspect, who has been given appropriate signal to stop by a law enforcement officer, is attempting to evade arrest by fleeing in a vehicle.

Factors that should be considered in deciding whether to initiate a pursuit include:

- (a) The seriousness of the known or reasonably suspected crime and its relationship to community safety.
- (b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to investigators, innocent motorists and others.
- (c) The safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones) and the speed of the pursuit relative to these factors.
- (d) The pursuing investigators familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing investigators under the conditions of the pursuit.
- (e) Whether the weather, traffic and road conditions unreasonably increase the danger of the pursuit when weighed against the risk of the suspect's escape.
- (f) The performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
- (g) Emergency lighting and siren limitations on unmarked District Attorney's Bureau of Investigation vehicles that may reduce visibility of the vehicle, such as visor or

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dash-mounted lights, concealable or temporary emergency lighting equipment, and concealed or obstructed siren positioning

- (h) Suspect and investigator vehicle speeds.
- (i) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
- (j) Availability of other resources such as air support or vehicle locator or deactivation technology

### 307.2.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be terminated whenever the totality of objective circumstances known or which reasonably ought to be known to the investigator or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect's escape.

The factors listed in this policy on when to initiate a pursuit will apply equally to the decision to terminate a pursuit. Investigators and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves, and the public when electing to continue a pursuit.

In addition to the factors that govern when to initiate a pursuit, other factors should be considered in deciding whether to terminate a pursuit, including:

- (a) The distance between the pursuing vehicle and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.
- (b) The pursued vehicle's location is no longer definitely known.
- (c) The pursuing vehicle sustains damage or a mechanical failure that renders it unsafe to drive.
- (d) Extended pursuits of violators for misdemeanors not involving violence, risk of serious harm, or weapons (independent of the pursuit) are generally discouraged.
- (e) The pursuing vehicle's emergency lighting equipment or siren becomes partially or completely inoperable.
- (f) Hazards to uninvolved bystanders or motorists.
- (g) The danger that the continued pursuit poses to the public, the investigators, or the suspect, balanced against the risk of allowing the suspect to remain at large.
- (h) The identity of the suspect is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit.

### 307.2.3 SPEED LIMITS

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

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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.

### **307.3 PURSUIT UNITS**

When involved in a pursuit, unmarked District Attorney's Bureau of Investigation emergency vehicles should be replaced by marked emergency vehicles whenever practicable.

Vehicle pursuits should be limited to three vehicles (two units and a supervisor); however, the number of units involved may vary with the circumstances.

An investigator or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it reasonably appears that the number of law enforcement officers involved may be insufficient to safely arrest the suspects. All other investigators should stay out of the pursuit, but should remain alert to its progress and location. Any investigator who drops out of a pursuit may then, if necessary, proceed to the termination point at legal speeds, following the appropriate rules of the road.

#### **307.3.1 VEHICLES WITHOUT EMERGENCY EQUIPMENT**

Investigators operating vehicles not equipped with red light and siren are prohibited from initiating or joining in any pursuit.

#### **307.3.2 PRIMARY UNIT RESPONSIBILITIES**

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless the investigator 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 suspects without unreasonable danger to any person.

The primary unit should notify the dispatcher commencing with a request for priority radio traffic, that a vehicle pursuit has been initiated, and as soon as practicable provide information including but not limited to:

- (a) The location, direction of travel, and estimated speed of the suspect's vehicle.
- (b) The description of the suspect's vehicle, including license plate number, if known.
- (c) The reason for the pursuit.
- (d) The identity or description of the known occupants.
- (e) Known or suspected weapons, threat of force, violence, injuries, hostages, or other unusual hazards.
- (f) The weather, road, and traffic conditions.
- (g) The need for any additional resources or equipment.

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- (h) The identity of other law enforcement agencies involved in the pursuit.

Until relieved by a supervisor or secondary unit, the investigator in the primary unit is responsible for the broadcasting of the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary pursuing investigator should, as soon as practicable, relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or air support joining the pursuit to minimize distractions and allow the primary pursuing investigator to concentrate foremost on safe pursuit tactics.

### 307.3.3 SECONDARY UNIT RESPONSIBILITIES

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

- (a) Immediately notifying the dispatcher of entry into the pursuit.
- (b) Remaining a safe distance behind the primary unit unless directed to assume the role of primary pursuit vehicle or if the primary pursuit vehicle is unable to continue the pursuit.
- (c) Broadcasting the progress, updating known or critical information, and providing changes in the pursuit, unless the situation indicates otherwise.
- (d) Identifying the need for additional resources or equipment as appropriate.
- (e) Serving as backup to the primary pursuing investigator once the suspect has been stopped.

### 307.3.4 PURSUIT DRIVING

The decision to use specific driving tactics requires an assessment by the investigator that is the same as when determining whether to initiate and/or terminate a pursuit. The following are tactics for units involved in the pursuit:

- (a) Investigators, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
  1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
  2. Pursuing units should exercise due regard and caution when proceeding through controlled intersections.
- (c) As a general rule, investigators should not pursue a vehicle driving left of center (wrong way) against traffic. In the event that the pursued vehicle does so, the following tactics should be considered:
  1. Requesting assistance from available air support.
  2. Maintain visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.

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3. Request other units to observe exits available to the suspects.
  - (d) Notify the California Highway Patrol (CHP) and/or other law enforcement agency if it appears that the pursuit may enter its jurisdiction.
  - (e) Investigators involved in a pursuit should not attempt to pass other units unless requested to do so by the primary unit, and with a clear understanding of the maneuver process between the involved units.

### **307.3.5 PURSUIT TRAILING**

In the event the initiating unit from this agency either relinquishes control of the pursuit to another unit or agency, that initiating unit may, with the permission of a supervisor, trail the pursuit to the termination point in order to provide information and assistance for the arrest of the suspects, and reporting the incident.

### **307.3.6 AIR SUPPORT ASSISTANCE**

When available, air support assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, the air unit should assume control over the pursuit. The primary and secondary ground units, or involved supervisor, will maintain operational control but should consider whether the participation of air support warrants the continued close proximity and/or involvement of ground units in the pursuit.

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

### **307.3.7 UNITS NOT INVOLVED IN THE PURSUIT**

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

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

## **307.4 SUPERVISORY CONTROL AND RESPONSIBILITIES**

Available supervisory and management control will be exercised over all vehicle pursuits involving investigators from this Bureau of Investigation.

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

- (a) Immediately notifying the involved unit and the dispatcher of supervisory presence and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit.



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- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the required number of units are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in the supervisor's judgment, it is unreasonable to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that assistance from air support, canines, or additional resources is requested, if available and appropriate.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring that a Commander or the Assistant Chief Investigator is notified of the pursuit as soon as practicable
- (i) Ensuring the notification and/or coordination of outside agencies.
- (j) Controlling and managing Bureau of Investigation units when a pursuit enters another jurisdiction.
- (k) Responding to the pursuit termination point to assist with determining responsibilities and providing guidance.
- (l) Preparing a post-pursuit review and documentation of the pursuit.
  - 1. Supervisors should initiate follow up or additional review when appropriate.

### **307.4.1 MANAGEMENT RESPONSIBILITIES**

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

All pertinent reports shall be reviewed for content and forwarded to the Chief Investigator.

### **307.5 THE COMMUNICATIONS CENTER**

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

#### **307.5.1 LOSS OF PURSUED VEHICLE**

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

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### **307.6 INTER-JURISDICTIONAL CONSIDERATIONS**

Since all Bureau of Investigation vehicles are unmarked, investigators shall request marked units from the agency with jurisdiction respond and take control of the pursuit.

#### **307.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY**

Investigators will relinquish control of the pursuit when another agency has assumed control of the pursuit, unless the continued assistance of the San Bernardino County District Attorney's Bureau of Investigation is requested by the agency assuming control of the pursuit. Upon relinquishing control of the pursuit, the involved investigators may proceed, with supervisory approval, to the termination point of the pursuit to assist in the investigation.

The supervisor should coordinate such assistance with the assuming agency and obtain any information that is necessary for any reports. Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific.

#### **307.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION**

The agency that initiates a pursuit is responsible for conducting the pursuit. Units from this Bureau of Investigation should not join a pursuit unless specifically requested to do so by the pursuing agency and with approval from a supervisor. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a supervisor may authorize units from this Bureau of Investigation to join the pursuit until sufficient units from the initiating agency or other marked police units join the pursuit or until additional information is provided allowing withdrawal from the pursuit.

When a request is made for this Bureau of Investigation to assist, the supervisor should consider these additional factors:

- (a) The public's safety within this jurisdiction.
- (b) Safety of the pursuing investigators.
- (c) Whether the circumstances are serious enough to continue the pursuit.
- (d) Whether there is adequate staffing to continue the pursuit.
- (e) Ability to maintain the pursuit.

As soon as practicable, a Supervising Investigator or Commander should review a request for assistance from another agency. The Supervising Investigator or Commander, after considering the above factors, may decline to assist in, or assume, the other agency's pursuit.

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

In the event that a pursuit from another agency terminates within this County, investigators should provide appropriate assistance to officers from the allied agency including but not limited to

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scene control, coordination and completion of supplemental reports, and any other reasonable assistance requested or needed.

### **307.7 PURSUIT INTERVENTION**

Pursuit intervention is an attempt to terminate the ability of a suspect to continue to flee in a motor vehicle through tactical application of technology, road spikes, blocking, boxing, PIT (Pursuit Intervention Technique), ramming or roadblock procedures. These pursuit intervention tactics by investigators are generally prohibited, unless determined by the investigator to be necessary to protect others from extreme danger being created by the suspect at the time.

#### **307.7.1 USE OF FIREARMS**

An investigator should only discharge a firearm at a moving vehicle or its occupants when the investigator reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the investigator or others.

Investigators should not shoot at any part of a vehicle in an attempt to disable the vehicle (see the Use of Force Policy).

#### **307.7.2 CAPTURE OF SUSPECTS**

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Investigators shall use only that amount of force, which reasonably appears necessary under the circumstances, to accomplish a legitimate law enforcement purpose.

Unless relieved by a supervisor, the primary pursuing investigator should coordinate efforts to apprehend the suspects following the pursuit. Investigators should consider safety of the public and the involved investigators when formulating plans for setting up perimeters or for containing and capturing the suspects.

### **307.8 REPORTING REQUIREMENTS**

All appropriate reports should be completed to comply with applicable laws, policies, and procedures.

- (a) The primary investigator should complete appropriate crime/arrest reports.
- (b) The involved Commander 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 Supervising Investigator for review and distribution.
- (c) The involved supervisor shall promptly notify a Commander or the Assistant Chief Investigator and provide a brief summary of the pursuit. The summary should include:
  1. Date and time of pursuit.
  2. Initial reason and circumstances surrounding the pursuit.

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3. Length of pursuit in distance and time, including the starting and termination points.
  4. Involved units and investigators.
  5. Alleged offenses.
  6. Whether a suspect was apprehended, as well as the means and methods used.
  7. Any use of force that occurred during the vehicle pursuit.
    - (a) Any use of force by a member should be documented in the appropriate report (See the Use of Force Policy).
  8. Any injuries and/or medical treatment.
  9. Any property or equipment damage.
  10. Name of supervisor at scene or who handled the incident.
  11. Annually, the Chief Investigator should direct a documented review and analysis of Bureau of Investigation vehicle pursuit reports to minimally include policy suitability, policy compliance, and training or equipment needs.
- (d) After receiving copies of reports, logs, and other pertinent information, the Chief Investigator or the authorized designee should conduct or assign the completion of a post-pursuit review.

### **307.8.1 REGULAR AND PERIODIC PURSUIT TRAINING**

The Commander responsible for training shall make available to all investigators initial and supplementary Police Officer Standard Training (POST) training on pursuits required by Penal Code § 13519.8, 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 (Vehicle Code § 17004.7(d)).

### **307.8.2 POLICY REVIEW**

Investigators of this Bureau of Investigation 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 investigators training file.

### **307.9 APPLICATION OF VEHICLE PURSUIT POLICY**

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

## Search and Seizure

### 308.1 PURPOSE AND SCOPE

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

### 308.2 POLICY

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

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

### 308.3 SEARCHES

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

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

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

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

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each investigator is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.

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

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### **308.4 SEARCH PROTOCOL**

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

- (a) Investigators will strive to conduct searches with dignity and courtesy.
- (b) Investigators should explain to the person being searched the reason for the search and how the search will be conducted.
- (c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
- (d) Prior to and after searching a location (Examples - residence, business), the location should be videotaped.
- (e) 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.
- (f) When the person to be searched is of the opposite gender as the searching investigator, a reasonable effort should be made to summon an investigator of the same gender as the subject to conduct the search. When it is not practicable to summon an investigator of the same gender as the subject, another investigator or a Supervising Investigator should witness the search.

## Discriminatory Harassment

### 309.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent Bureau of Investigation employees from being subjected to discriminatory harassment, including sexual harassment, retaliation and abusive conduct (Government Code § 12940(k); 2 CCR 11023). Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

### 309.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discriminatory harassment, including sexual harassment, retaliation and abusive conduct. The Bureau of Investigation will not tolerate discrimination against an employee in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. The Bureau of Investigation 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 of Investigation 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 an employee to discipline.

[See attachment: County Policy 07-01 Prohibiting Discrimination and Harassment - and pamphlet.pdf](#)

### 309.3 DEFINITIONS

Definitions related to this policy include:

#### 309.3.1 DISCRIMINATION

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

## *Discriminatory Harassment*

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cartoons, posters or material; making inappropriate physical contact; or using written material or Bureau of Investigation equipment and/or systems to transmit or receive offensive material, statements or pictures. Such conduct is contrary to Bureau of Investigation policy and to a work environment that is free of discrimination.

### 309.3.2 RETALIATION

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

### 309.3.3 SEXUAL HARASSMENT

The Bureau of Investigation prohibits all forms of discrimination and discriminatory harassment, including sexual harassment. It is unlawful to harass an applicant or an employee 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 employee.
- (c) Such conduct has the purpose or effect of substantially interfering with an employee's work performance or creating an intimidating, hostile, or offensive work environment.

### 309.3.4 ABUSIVE CONDUCT

Abusive conduct is conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act does not constitute abusive conduct, unless especially severe and egregious (Government Code 12950.1).

### 309.3.5 ADDITIONAL CONSIDERATIONS

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

- (a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the California Fair Employment and Housing Council guidelines.
- (b) Bona fide requests or demands by a supervisor that an employee improve his/her work quality or output, that the employee report to the job site on time, that the



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employee comply with County or Bureau of Investigation rules or regulations, or any other appropriate work-related communication between supervisor and employee.

### **309.4 RESPONSIBILITIES**

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

Employees are encouraged to promptly report any discriminatory, retaliatory, or harassing or abusive conduct or known violations of this policy to a supervisor. Any employee who is not comfortable with reporting violations of this policy to the employee'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 Director of Human Resources or the Chief Executive Officer.

Any employee who believes, in good faith, that the employee 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.

#### **309.4.1 QUESTIONS OR CLARIFICATION**

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

#### **309.4.2 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 subordinates understand their responsibilities under this policy.
- (d) Ensuring that employees 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 Director of Human Resources in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

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### 309.4.3 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 of Investigation 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 employees or issuing discipline, in a manner that is consistent with established procedures.

### **309.5 INVESTIGATION OF COMPLAINTS**

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

#### 309.5.1 SUPERVISOR RESOLUTION

Employees 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 employee feels uncomfortable or threatened or has difficulty expressing the employee'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.

#### 309.5.2 FORMAL INVESTIGATION

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

The person assigned to investigate the complaint will have full authority to investigate all aspects of the complaint. Investigative authority includes access to records and the cooperation of any employees involved. No influence will be used to suppress any complaint and no employee 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.

Employees 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 Director of Human Resources or the Chief Executive Officer.

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### 309.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any employee from seeking legal redress outside the Bureau of Investigation. Employees 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. Employees are advised that proceeding with complaints under the provisions of this policy does not in any way affect those filing requirements.

### 309.6 DOCUMENTATION OF COMPLAINTS

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

- Approved by the Chief Investigator, the Chief Executive Officer or the Director of Human Resources, depending on the ranks of the involved parties.
- Maintained in accordance with the Bureau of Investigation's established records retention schedule.

#### 309.6.1 NOTIFICATION OF DISPOSITION

The complainant and/or victim will be notified in writing of the disposition of the investigation.

### 309.7 WORKING CONDITIONS

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

### 309.8 TRAINING

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

#### 309.8.1 STATE-REQUIRED TRAINING

The Commander over training 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.

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

If the required training is to be provided by DFEH online training courses, the Commander should ensure that employees are provided the link or website address to the training course (Government Code § 12950).

### 309.8.2 TRAINING RECORDS

The Commander over training shall be responsible for maintaining records of all discriminatory harassment training provided to employees. Records shall be retained in accordance with established records retention schedules and for a minimum of two years (2 CCR 11024).

## Victim and Witness Assistance

### 310.1 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.

### 310.2 POLICY

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

### 310.3 CRIME VICTIM POINT OF CONTACT

The Chief Investigator has designated the Bureau of Victim Services as the point of contact for individuals requiring further assistance or information from the San Bernardino County District Attorney's Office regarding benefits from crime victim resources.

### 310.4 CRIME VICTIMS

Investigators should advise all victims requesting assistance to contact the Office's Bureau of Victim Services.

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.

#### 310.4.1 VICTIM CONFIDENTIALITY

Investigators investigating or receiving a report involving a victim of a sex offense 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).

### 310.5 VICTIM INFORMATION

The Commander of Trial Preparation shall ensure that victim information handouts, provided by the Bureau of Victim Services, are available and current. These should include guidance on how to receive information on the following, as appropriate:

- (a) Shelters and other community resources for victims of domestic violence.
- (b) Community resources for victims of sexual assault.

## *Victim and Witness Assistance*

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- (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).

### **310.6 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.

When an investigator is informed that credible evidence may exist that a victim or witness may suffer intimidation or retaliatory violence, an assessment shall be conducted to determine whether the person qualifies for, and desires, assistance from the California Witness Relocation and Assistance Program (CalWRAP). The investigator shall also evaluate the need to contact SRT for

### *Victim and Witness Assistance*

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a formal threat assessment and the potential for SRT involvement. (Refer to current CalWRAP procedures for additional information.)

## Standards of Conduct

### 311.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of the San Bernardino County District Attorney's Bureau of Investigation and are expected of all Bureau of Investigation employees. 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 of Investigation or an employee's supervisors.

### 311.2 POLICY

The appointment or continued employment of every employee of the San Bernardino County District Attorney's Bureau of Investigation 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.

### 311.3 MEMORANDUM OF UNDERSTANDING

Three Memorandums of Understanding (M.O.U.s) apply to Bureau of Investigation employees:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### 311.4 DIRECTIVES AND ORDERS

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

#### 311.4.1 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 of Investigation 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 employee 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 employee from criminal or civil prosecution or administrative discipline. If the legality of an order is in doubt, the affected employee 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 employee, who shall subsequently be required to justify the refusal.



## *Standards of Conduct*

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Unless it would jeopardize the safety of any individual, employees who are presented with a lawful order that is in conflict with a previous lawful order, Bureau of Investigation 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 employee is obliged to comply. Employees 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.

### **311.4.2 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 an employee 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 employee for malicious or other improper purpose.

### **311.5 GENERAL STANDARDS**

Employees 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.

All Bureau of Investigation personnel are expected to act professionally and follow established policies when they are called upon to represent the District Attorney's Office in the community and when communicating with the media. Refer to the Media Relations policy.

On-duty employees shall be attentive to reports and complaints by citizens. They shall either give them personal attention or refer them to the proper responsible person or agency. Emergency reports or complaints shall take precedence.

Employees shall familiarize themselves with policies and procedures and are responsible for compliance with each. Employees should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty. Employees shall report to their supervisor any violations of this policy they witness or become aware of.

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

### **311.5.1 SPECIAL ASSIGNMENTS**

Employees with special assignments or ancillary duties (Example - TLO) are expected to attend any associated regular meetings of task forces and informational meetings, which are held locally. Locations requiring air transportation or overnight stay require prior approval by the appropriate Supervising Investigator.

### **311.5.2 IDENTIFICATION**

Employees, when acting on official business, shall identify themselves. If requested, the employee's name shall be provided, and the employee's badge or identification card shall be presented. When making an official visit, an Office business card should be used showing the employee's name and rank. When the employee feels that such identification may jeopardize the outcome of a police activity, he/she shall be excused from doing so.

### **311.6 WORK HOURS**

Employees shall report for duty promptly and properly at the time specified by their supervisor. Employees of the Bureau of Investigation are expected to be at work during work hours established based on the office hours of operation and the needs of the Bureau of Investigation. Office hours are generally 8am to 5pm on weekdays. Supervisors have the responsibility of making sure employees are able to take breaks they are entitled to, while also ensuring adequate staffing is provided. When an employee must be absent from work, the employee shall notify a supervisor as soon as practical. Elective time off (Vacation, Holiday, Administrative Leave and Compensatory Time) shall be preapproved by the appropriate supervisor.

Sick Leave time is an earned benefit that must be used in accordance with County rules, and state and federal laws.

#### **311.6.1 DUTY TIME OF EMPLOYEES**

- (a) Employees shall report for duty at the time specified by their supervisor. Supervisors will designate lunch and break times. Any adjustments shall have prior supervisory approval.
- (b) Investigators are sworn peace officers who have police powers 24-hours a day (PC § 830.1).
- (c) The Chief Investigator or designee will set the work hours to suit the needs of the Bureau of Investigation, in accordance with the existing M.O.U.s. As a general rule, employee work hours are expected to cover the hours of 8am to 5pm on weekdays. Some special assignments may require employees to work hours that do not necessarily coincide with office hours.
- (d) Overtime and holiday compensation may be authorized pursuant to employee M.O.U.s and guidelines established by the Chief Investigator or designee.

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- (e) All Bureau of Investigation employees shall have an operational cellular phone or residential landline telephone. This will enable management to contact employees during off-duty hours, if necessary. Employees shall report any change of telephone number or address to their supervisor within five working days of the change occurring. Employees are also expected to submit an updated Emergency Personal Information form to their supervisor, which reflects the changes, in a timely manner.

### 311.6.2 EMPLOYEE ABSENCE

- (a) Elective time off (Vacation, Holiday, Administrative Leave and Compensatory Time) may be used for any reason with prior approval from an employee's supervisor.
- (b) Employees compelled to be absent from duty for any reason shall notify their supervisor as soon as reasonably possible.
- (c) It is the responsibility of the employee to properly complete leave requests for time off. The employee shall anticipate the use of leave as far in advance as practical so that supervisors can plan staffing schedules accordingly.
- (d) The Bureau of Investigation has the right to deny the usage of elective time off if granting such leave places an unreasonable burden on the Bureau of Investigation and negatively impacts its ability to adequately staff operations.
- (e) Absence without pay may be allowed upon application through the chain of command to the Chief Investigator or designee. Mindful that leave without pay generally requires extraordinary circumstances and pre-approval, employees are responsible for ensuring their leave banks have sufficient time in them to cover the leave requested.
- (f) Military leave is governed by County rules and provisions of the Military and Veteran's Code.
- (g) Pregnancy and paternal time off for an employee are governed by the employee's bargaining unit M.O.U. and existing County rules, state law and federal law.

### 311.6.3 SICK LEAVE

- (a) The goal of Sick Leave is to ensure Bureau of Investigation employees have a bank of time, from which to be compensated, should they fall ill or require medical procedures that keep them from performing their functions at work.
- (b) Sick Leave shall be used only for its intended purpose and in accordance with the employee's existing M.O.U. and County rules.
- (c) Sick Leave with pay is an insurance or protection provided by the County to be granted in circumstances of adversity to promote the health of the individual employee. It is not an earned right to time off of work.
- (d) Employees are required to notify their supervisor, or another person in authority if the supervisor is unavailable, when they are unable to come into work due to an illness. The employee is required to personally speak with his/her supervisor, unless other forms of notification have been authorized. The notification shall also be made in accordance with the employee's current MOU.

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- (e) 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).
- (f) Supervisors should not request a doctor's note until after an employee has used half of his/her annual Sick Leave accrual. If a supervisor has a concern about the employee being properly fit for returning to duty after such an absence, the supervisor may require the employee to visit the County Wellness Center for a medical examination authorizing the employee to return to work PRIOR to the employee's actual return to work.
- (g) If a supervisor believes an employee is misusing Sick Leave, the supervisor shall contact and work with the Office's Human Resource Officer to develop a plan to address the alleged Sick Leave abuse.
- (h) A doctor's certificate or other adequate proof of illness shall be provided by the employee in all cases of absence due to illness when requested by the appointing authority. Requests for proof of illness will be made in compliance with the California Labor Code. If the reason for the absence is something that requires a physician's release, the employee may not return to work until such time as the employee delivers to his/her supervisor a written return to work order from the employee's physician.
- (i) If an employee is sick or injured and desires to return to work with restrictions imposed by his/her health care provider, a supervisor will require the employee to visit the County Wellness Center for approval of the restrictions PRIOR to the employee's return to work.
- (j) Employees are encouraged to use one of their regularly scheduled days off for attendance at a routine physician's or medical professional's appointment.
- (k) In accordance with the employee's MOU provisions, non-work related illnesses or injuries requiring a visit to the County Wellness Center are required to be debited against an employee's leave bank.
- (l) On-the-job injury or illness occurring to any employee in the course of Office employment shall be handled in a manner in compliance with state law, County rules and the employee's bargaining unit M.O.U.
- (m) Absence due to the death, or a critical illness where death is imminent, of a member of the employee's immediate family shall be allowed with pay in accordance with the employee's bargaining unit M.O.U.
- (n) Upon return to work, employees are responsible for ensuring their time off is appropriately accounted for in EMACS.

### 311.6.4 OVERTIME

- (a) In accordance with MOU provisions and the Fair Labor Standards Act, management has the right to control overtime in order to facilitate operations. According to the Employees' MOU provisions and the Fair Labor Standards Act, employees have the right to be fairly compensated for time worked in excess of their standard shift.

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- (b) The Bureau of Investigation will ensure proper coverage for all areas of operation in order to minimize any overtime worked by employees. All supervisors and managers, to the extent possible, will schedule time off and develop work schedules that afford the Bureau of Investigation the greatest coverage possible, while limiting the amount of overtime incurred.
- (c) A supervisor must provide approval before an employee may work overtime.
- (d) Supervisors have the right to pre-determine the compensation method for overtime, provided the overtime is announced in advance of the assignment, and the employee agrees to the compensation proposed. Any employee who agrees to work for the compensatory time will be compensated with "compensatory time earned", at a rate of one and one-half times. If there is no volunteer for the assignment, and an employee is selected to perform the overtime assignment, the selected employee has the option of being compensated by either receiving compensatory time or by being paid overtime. The supervisor or manager making the overtime order may not influence the employee to elect a certain type of compensation.
- (e) In situations where an employee is placed in a predicament where the prior overtime approval could not be obtained, as the overtime was unforeseen, the employee must notify his/her supervisor as soon as having to work overtime becomes imminent. In these circumstances, the employee has the right to determine the type of compensation he/she desires.

#### 311.6.5 MODIFIED DUTY ASSIGNMENTS

The Bureau of Investigation does not have any permanent "modified duty" assignments. Employees who are injured (either on-duty or off-duty) or who undergo medical treatment and are in a state of recuperation may request accommodation to return to work with a modified duty assignment. If the Bureau of Investigation can reasonably accommodate the request for a temporary modified duty assignment, such an accommodation may be arranged.

Allowing an employee to return to the workplace in a productive assignment assists in the healing process and increases the employee's morale. To facilitate a rapid return to work, the assigned County Human Resource Officer will assist the Bureau of Investigation with any light duty assignments. If the duration of the light duty assignment will exceed six weeks, the Human Resource Officer will be contacted to ensure compliance with the County's light duty policies.

#### 311.6.6 HEALTH INSURANCE PLAN PORTABILITY ACT

The Health Insurance Plan Portability Act (HIPPA) requires that information regarding an employee's medical history be safeguarded. For this reason, no supervisor will retain medical information in any supervisor's file. All information regarding an employee's medical condition will be forwarded via the chain of command to the Chief Investigator's office for maintenance in the employee's Medical File. Refer to the Personnel Records policy.

#### 311.6.7 FAMILY MEDICAL LEAVE ACT AND CALIFORNIA FAMILY RIGHTS ACT

A supervisor may designate extended or intermittent leave as FMLA (Family Medical Leave Act) and/or CFRA (California Family Rights Act) leave in accordance with federal and state laws. These

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laws exist to protect the employee's job and employer-paid benefits while the employee is out on a qualified leave of absence.

A *Request for Extended Sick and Special Leave (RESSL)* form shall be completed in such instances requesting an extended leave for the employee's own serious health condition, the serious health condition of the employee's child, spouse, domestic partner, or parent, or for the birth or adoption of a child. Leave for any of these reasons qualifies as FMLA and/or CFRA Leave.

(a) A "serious health condition" for a family member requires either:

1. Hospitalization; or
2. Any period of incapacity of more than three successive work days that involves continuing treatment by a health care provider; or
3. Any health condition that if left untreated would result in a period of incapacity of at least three days (including chronic conditions); or
4. For prenatal care.

The definition of a "serious health condition" is the same for an employee with the addition that it must prevent the employee from performing the functions of his/her position.

An employee may also take extended leave to gain relief as a victim of domestic violence, sexual assault, or stalking (per SB 579).

If the reason for the leave meets the above criteria and the employee meets the eligibility requirements, the employee's leave will be counted as FMLA and/or CFRA. This does not impact how or if the employee is paid during their leave. The employee is still required to complete the necessary paperwork to receive sick pay and/or disability, if eligible. An Office payroll clerk will send formal notification to the employee indicating the dates covered, what entitlement his/her leave counts against, eligibility, and if there is any additional information required. When requesting FMLA and/or CFRA, if the employee has not already done so, the employee should have his/her health care provider complete a Health Care Provider Certification form and return it to the Office's payroll clerk within 15 days. If this information is not received within 15 days, the employee's leave may be denied.

Additional information is available by obtaining the FMLA and Pregnancy Supplemental Brochures from an Office payroll clerk. Employees who have additional questions should call an Office payroll clerk.

### 311.6.8 RELEASE TIME FOR LABOR ACTIVITIES

Employees may be granted release time for labor activities in accordance with the provisions of the employee's MOU agreement. Generally, the District Attorney's Office does not grant employees

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the use of on-duty release time for labor activities. When operations can continue without incurring overtime to cover an employee's assignments, employees may use personal leave time to attend to labor activities. If an employee has a question about granting release time for labor activities, they should contact their supervisor or the Office's Human Resource Officer for assistance.

### **311.6.9 ON-CALL ASSIGNMENTS**

As part of operational duties, selected Bureau of Investigation personnel will be designated as on-call. Employees with this status are expected to answer after-hours calls made to their Bureau-issued cell phone. Having certain employees on-call ensures the appropriate personnel are available for after-hours phone calls and response, as needed. When an on-call employee determines he/she will be unavailable (e.g., vacation, training, unexpected unavailability), a supervisor shall be notified as soon as is practical so that arrangements may be made to maintain the Bureau of Investigation's on-call responsibilities.

### **311.7 CAUSES FOR DISCIPLINE**

The following are illustrative of causes for disciplinary action, up to and including dismissal. 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 of Investigation service:

#### **311.7.1 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 of Investigation or County manuals.
- (b) Disobedience of any legal directive or order issued by any Bureau of Investigation member of a higher rank.
- (c) Violation of federal, state, local or administrative laws, rules or regulations.

#### **311.7.2 ETHICS**

- (a) Using or disclosing one's status as a member of the San Bernardino County District Attorney's Bureau of Investigation in any way that could reasonably be perceived as an attempt to gain influence or authority for non-Bureau of Investigation business or activity.
- (b) The wrongful or unlawful exercise of authority on the part of any member for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (c) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the member's duties (lawful subpoena fees and authorized work permits excepted).
- (d) Acceptance of fees, gifts or money contrary to the rules of this Bureau of Investigation and/or laws of the state.
- (e) Offer or acceptance of a bribe or gratuity.

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- (f) Misappropriation or misuse of public funds, property, personnel or services.
- (g) Any other failure to abide by the standards of ethical conduct.

### 311.7.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

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

### 311.7.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the employee 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 of Investigation.
- (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 employee knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this Bureau of Investigation.
- (f) Acting as bailer or facilitating bail of any person in custody without notifying the Chief Investigator as soon as practical, via the chain of command.
- (g) Recommending an attorney or bail bondsman when acting in an official capacity.
- (h) Affiliating or associating with any person, organization or group that may compromise duties or allegiance to the Office, and prevent the employee from functioning ethically, legally, properly and promptly for the Office.
- (i) Associating with or doing business with any person or group known to be involved in, or to be affiliated with, crime or terrorism; or whose general reputation in the law enforcement or intelligence community is that which would give the appearance the employee may be placed in a compromising position. If this is occurring for legitimate law enforcement purposes, a Supervising Investigator shall be notified as soon as practical.
- (j) Testifying, either as an expert or regular witness, or providing investigative services or reports for or on behalf of a defense attorney or defendant in a criminal matter



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without proper subpoena, which has been reviewed by the Appellate Services Unit, and notification to the Chief Investigator, via the chain of command, as soon as is practical.

- (k) Engaging in a relationship that could embarrass or discredit the Office and not disclosing this information to a supervisor.
- (l) Arranges personal or financial affairs in such a manner that the Bureau of Investigation is adversely contacted.

### 311.7.5 ATTENDANCE

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

### 311.7.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the employee's position with this Bureau of Investigation.
  - (a) Employees of this Bureau of Investigation shall not disclose the name, address or image of any victim of human trafficking except as authorized by law (Penal Code § 293).
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this Bureau of Investigation for personal or financial gain or without the express authorization of the Chief Investigator or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away or appropriating any San Bernardino County District Attorney's Bureau of Investigation property for personal use, personal gain or any other improper or unauthorized use or purpose.
- (e) Using Bureau of Investigation resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

### 311.7.7 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

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- (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 of Investigation within five working days of any change in residence address or contact telephone 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.

### 311.7.8 PERFORMANCE

- (a) 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.
- (b) 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.
- (c) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any Office or Bureau of Investigation record, public record, book, paper or document.
- (d) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any Office or Bureau of Investigation -related business.
- (e) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of the Office, the Bureau of Investigation or the employees.
- (f) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Office or the Bureau of Investigation or subverts the good order, efficiency and discipline of the Office or the Bureau of Investigation or that would tend to discredit any of its employees.
- (g) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
  - 1. While on Bureau of Investigation premises.
  - 2. At any work site, while on--duty or while in uniform, or while using any Bureau of Investigation equipment or system.
  - 3. Gambling activity undertaken as part of an Investigator's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (h) Improper political activity including:
  - (a) Unauthorized attendance while on-duty at official legislative or political sessions.

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- (b) Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or, on Office property except as expressly authorized by County policy, the employee's M.O.U., or the Chief Investigator.
- (c) Use of Office equipment in support of political activity.
- (i) Engaging in political activities during assigned working hours except as expressly authorized by County policy, the employee's M.O.U., or the Chief Investigator.
- (j) Any act on- or off-duty that brings discredit to this Office.

### 311.7.9 CONDUCT

- (a) Failure of any employee 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 or 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 antics that reasonably could result in injury or property damage.
- (f) Loitering in bars, taverns, theaters or other public places while on-duty, expect in performance of official duties.
- (g) Discourteous, disrespectful or discriminatory treatment of any member of the public or any employee of this Office or the County.
- (h) Becoming involved in, or otherwise interfering with, the criminal or internal investigations of another law enforcement agency without the request of the agency, the Chief Investigator, or the Assistant Chief Investigator. This includes criminal incidents in which the affected employee is a victim.
- (i) Becoming involved in the criminal or internal investigation of another law enforcement agency at the request of that agency but not notifying the Chief Investigator or designee as soon as is practical, within 24 hours.
- (j) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform, unless such use can be sufficiently justified.
- (k) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the employee's relationship with this Office.
- (l) Providing legal counsel or advice to a citizen.
- (m) Unauthorized possession of, loss of, or damage to Office property or the property of others, or endangering it through carelessness or maliciousness.

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- (n) Attempted or actual theft of Office property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of Office property or the property of another person.
- (o) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any M.O.U. or contract to include fraud in securing the appointment or hire.
- (p) 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.
- (q) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of the Bureau of Investigation, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this Office or its members.

#### 311.7.10 SAFETY

- (a) Failure to observe or violating Bureau of Investigation 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) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off-duty.
- (d) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not specifically authorized by this manual, or for which the Chief Investigator or designee has authorized an exception.
- (e) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (f) Any personal action contributing to a preventable traffic collision.
- (g) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

#### 311.7.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the employee'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. An employee who is authorized to consume alcohol for a work-related purpose 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.
- (d) Use of medically prescribed medications or drugs, which may impair the employee, while on-duty without prior notification to the appropriate supervisor.

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### **311.8 COUNTY PERSONNEL RULES**

All employees assigned to the Bureau of Investigation are employees of the County of San Bernardino. As such, all employee conduct, in addition to being governed by the rules listed in this manual, is regulated by the County of San Bernardino Personnel Rules. Employees are advised they are responsible for adherence to the County Personnel Rules. All Bureau of Investigation employees are provided internet access from their office computer, and may therefore access the County Personnel Rules by visiting this link: ([http://countyline/hr/employeerelations/\\_content/PERSONNELRULES 72407.pdf](http://countyline/hr/employeerelations/_content/PERSONNELRULES%2072407.pdf) Revised 4-28-09).

## Information Technology Use

### 312.1 PURPOSE AND SCOPE

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

#### 312.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

### 312.2 POLICY

It is the policy of the San Bernardino County District Attorney's Bureau of Investigation that employees shall use information technology resources, including computers, software and systems, that are issued or maintained by the Bureau of Investigation or the Office in a professional manner and in accordance with this policy, and county policies. Refer to Section 9 of the County Policy Manual.

### 312.3 PRIVACY EXPECTATION

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

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

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

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

#### **312.4 RESTRICTED USE**

Employees shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Employees shall immediately report unauthorized access or use of computers, devices, software or systems by another employee to their assigned Supervising Investigator or Commander.

Employees shall not use another person's access passwords, logon information and other individual security data, protocols and procedures unless directed to do so by a supervisor.

##### **312.4.1 SOFTWARE**

Employees 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, employees shall not install any unlicensed or unauthorized software on any Bureau of Investigation computer. Employees shall not install personal copies of any software onto any Bureau of Investigation computer. The Office's Bureau of Information Technology (BIT) must be contacted for software installation after receiving authorization from the Chief Investigator or the authorized designee.

No employee shall knowingly make, acquire or use unauthorized copies of computer software that is not licensed to the Bureau of Investigation while on Office premises, computer systems or electronic devices. Such unauthorized use of software exposes the Bureau of Investigation and involved employees to severe civil and criminal penalties.

Introduction of software by employees should only occur as part of the automated maintenance or update process of Bureau of Investigation- 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 BIT staff and a full scan for malicious attachments.

##### **312.4.2 HARDWARE**

Access to technology resources provided by or through the Office shall be strictly limited to Bureau of Investigation-related activities. Data stored on or available through Office computer systems shall only be accessed by authorized employees who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or

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Bureau of Investigation-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

#### **312.4.3 INTERNET USE**

Internet access provided by or through the Office shall generally be limited to Bureau of Investigation-related activities, and in accordance with County policy Section 9. Internet sites containing information that is not appropriate or applicable to Bureau of Investigation 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 employee's assignment.

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

#### **312.4.4 OFF-DUTY USE**

Employees shall generally limit use of technology resources provided by the Office while on-duty or in conjunction with specific on-call assignments.

Refer to the Personal Communication Devices Policy for guidelines regarding occasional use of Office-issued cellular phones, computers and email.

### **312.5 LAW ENFORCEMENT COMPUTERIZED DATABASES AND PUBLIC RECORDS**

Inquiries into databases available to the District Attorney's Office will be made only in relation to an ongoing criminal investigation, suspected criminal act or an administrative investigation (when appropriate). The concept of a right-to-know and a need-to-know will be strictly adhered to.

No employee of the Bureau of Investigation shall release, or cause to be released, any information gained from any law enforcement database to any unauthorized person or persons without the express approval of that employee's supervisor. The only persons authorized to receive such information are members of other law enforcement agencies who can demonstrate a right-to-know and a need-to-know the information in question.

No employee of the Bureau of Investigation shall access any of the law enforcement computerized databases available to the District Attorney's Office to gain information about persons, vehicles, or property for personal reasons or when not in direct relation to the employee's duties as an employee of the District Attorney's Office. This includes inquiries for the purpose of determining if an individual has an outstanding arrest warrant, or if a vehicle or other property has been reported stolen.

The District Attorney's Office has access to private information databases, including but not limited to LexisNexis and TLOxp, in order to gain information about members of the general public. No



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employee of the Bureau of Investigation shall access any such database or public record for reasons that are not in direct relation to duties with the District Attorney's Office.

Unauthorized use of these databases may subject an employee to criminal prosecution and may result in disciplinary action, up to and including termination of employment.

### **312.6 PROTECTION OF OFFICE SYSTEMS AND FILES**

All employees 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.

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

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

### **312.7 INSPECTION OR REVIEW**

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

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Office involving one of its employees or an employee's duties, an alleged or suspected violation of any Bureau of Investigation policy, a request for disclosure of data, or a need to perform or provide a service.

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

## Report Preparation

### 313.1 PURPOSE AND SCOPE

Report preparation can be a major part of investigative work. The purpose of reports is to document sufficient information to refresh the employee's memory and to provide sufficient information for follow-up investigation and successful prosecution. Report writing is the subject of formalized training and substantial on-the-job training.

#### 313.1.1 REPORT PREPARATION

Employees should ensure that reports are sufficiently detailed for their purpose and free from errors prior to submission. The reports are to be written so they are easily read and understood. Reports are to be single-spaced, using Times New Roman, Arial or Calibri with a font size of 12.

Employees shall complete and submit all reports and other documentation of investigative work to the appropriate supervisor within 10 working days. Employees are to obtain prior approval from their supervisor if completion will be delayed. After approval, employees are to submit copies of reports to the appropriate deputy district attorney, as needed. Reports are considered official records.

Handwritten reports must be prepared legibly. If the report is not legible, the submitting employee will be required by the reviewing supervisor to promptly make corrections and resubmit the report. Employees who generate reports on computers are subject to all requirements of this policy.

All reports shall accurately reflect the identity of the persons involved, all pertinent information seen, heard or assimilated by any other sense, and any actions taken. Employees shall not suppress, conceal or distort the facts of any reported information, 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.

#### 313.1.2 USE OF REPORT FORMS

Employees are expected to use the correct report form. Employees are to be in compliance with PC § 964, which addresses the confidentiality of victim and witness personal information.

#### 313.1.3 OBTAINING A CASE NUMBER

A case number shall be obtained when a report is generated. Case numbers are issued by select Bureau of Investigation employees (primarily trial prep coordinators). The case number will be listed on all related reports as a means of locating and tracking the incident. Effort should be made to determine if a case number associated with the incident was previously drawn before drawing a new case number.

Explanation of Case Numbers:

Example: 2018-01-001 CE

2018 - Indicates the year in which the case was drawn.

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01 - Indicates the month the case number was drawn.

001 - Indicates the sequential case number for the year.

CE - The suffix identifying the unit where the report originated. (Central - CE, Victorville - VV, West Valley - WV, etc.)

#### **313.2 GENERAL POLICY OF EXPEDITIOUS REPORTING**

In general, all employees and supervisors shall act with promptness and efficiency in the preparation and processing of all reports. An incomplete report, unorganized reports or reports delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or according to special priority necessary under exceptional circumstances.

#### **313.3 REPORT CORRECTIONS**

Supervisors shall review reports for content and accuracy. When corrections are necessary, the report is to be returned to the reporting employee for correction as soon as practical. It shall be the responsibility of the originating employee to ensure that any report returned for correction is processed in a timely manner.

#### **313.4 REPORT PROCESSING**

Once a report has been approved, the report shall be forwarded to the Bureau of Investigation's Custodian of Records who will log in the report as being received, electronically scan the report, and file the original report. Reports authored by Supervising Investigators shall be forwarded to their assigned Commander or, in his/her absence, the other Commander or the Assistant Chief Investigator, for review and approval. The reports shall then be forwarded to the Custodian of Records for processing.

#### **313.5 REPORT CHANGES OR ALTERATIONS**

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

## Media Relations

### 314.1 PURPOSE AND SCOPE

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

### 314.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the District Attorney and the Chief Investigator. The District Attorney's Public Affairs Officer is the person designated to prepare and release information to the media in accordance with this policy and the applicable law. All press releases shall conform to the Media Relations Policy located in the District Attorney's Office Policy Manual.

The Chief Investigator shall be immediately notified, via the chain of command, of any information an employee believes should be released to the public or could become public knowledge.

#### 314.2.1 MEDIA REQUEST

The Chief Investigator shall be notified of any media request for information as soon as is practical, via the chain of command, for referral to the Public Affairs Officer. Prior to releasing any information to the media, employees shall consider the following:

- (a) At no time shall any employee of this Bureau of Investigation make any comment or release any official information to the media without prior approval from the Chief Investigator or designee.
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this Bureau of Investigation.
- (c) Under no circumstance should any employee of the Bureau of Investigation make any comments to the media regarding any law enforcement incident not involving this Bureau of Investigation without prior approval of the Chief Investigator.

The Chief Investigator shall be notified of any media request for reports. The Chief Investigator or designee will work with the Office's Appellate Services Unit on providing the requested reports.

All requests for employees to appear in public, as official representatives of the Office, shall be forwarded through the chain of command to the Chief Investigator. The dress shall be appropriate for the occasion. Employees making public appearances, as is expected at any other time, shall refrain from releasing any reports, photographs or other information concerning operations of the Office unless authorized by the Chief Investigator.

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### **314.3 MEDIA ACCESS**

Authorized employees of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions (Penal Code § 409.5(d)):

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
  - 1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the District Attorney's Public Affairs Officer or other designated spokesperson.
  - 2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the supervisor in charge should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Assistant Chief Investigator of Trial Preparation. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).
- (c) No employee of the Bureau of Investigation who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee.
- (d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief Investigator and the express consent of the person in custody.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Bureau of Investigation employees shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through the Chief Investigator and the Public Affairs Officer.

#### **314.3.1 PROVIDING ADVANCE INFORMATION**

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

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

## Subpoenas and Court Appearances

### 315.1 PURPOSE AND SCOPE

This policy establishes the guidelines for Bureau of Investigation employees who must appear in court. It will allow the San Bernardino County District Attorney's Bureau of Investigation to cover any related work absences and keep the Bureau of Investigation informed about relevant legal matters.

### 315.2 POLICY

San Bernardino County District Attorney's Bureau of Investigation employees will respond appropriately to all subpoenas and any other court-ordered appearances.

### 315.3 SUBPOENAS

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

The party that issues a civil subpoena to an employee 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). All such subpoenas shall be immediately given to the Appellate Services Unit for review.

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 employee within sufficient time for the named employee 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 employee within sufficient time for the named employee to comply with the subpoena, the supervisor shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

#### 315.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any employee who is subpoenaed to testify, agrees to testify or provide information on behalf of or at the request of any party other than this District Attorney's Office 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 employee is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the employee's on-duty activity or because of his/her association with the San Bernardino County District Attorney's Bureau of Investigation.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the San Bernardino County District Attorney's Bureau of Investigation.

The supervisor will then notify the Commander and the Appellate Services Unit.

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

### **315.3.2 CIVIL SUBPOENA**

The Bureau of Investigation will compensate employees who appear in their official capacities on civil matters arising out of their official duties, as directed by the current M.O.U. or collective bargaining agreement.

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

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

Employees receiving valid subpoenas for off-duty actions not related to their employment or appointment shall be handled either on the employee's own time, in accordance with the employee's M.O.U., or as authorized by the Chief Investigator or designee.

### **315.4 FAILURE TO APPEAR**

Any employee who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

### **315.5 STANDBY**

To facilitate standby agreements, employees are required to provide and maintain current information on their addresses and contact telephone numbers with the Bureau of Investigation.

If an employee on standby changes his/her location during the day, the employee shall notify the designated department employee of how he/she can be reached. Employees are required to remain on standby until released by the court or the party that issued the subpoena.

### **315.6 COURTROOM PROTOCOL**

When appearing in court, employees shall:

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

## *Subpoenas and Court Appearances*

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- (b) Dress in conservative business attire and in accordance with the Bureau of Investigation's dress policies covering court appearances. Investigative Technicians may wear the authorized Investigative Technician uniform to court when notice of the appearance occurred on the same day. Any other exceptions shall be approved by the employee's immediate supervisor.
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

### 315.6.1 TESTIMONY

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

### **315.7 OVERTIME APPEARANCES**

When an employee appears in court on his/her off-duty time, he/she will be compensated in accordance with the current memorandum of understanding or collective bargaining agreement.



## Outside Agency Assistance and Notification

### 316.1 PURPOSE AND SCOPE

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

### 316.2 POLICY

It is the policy of the San Bernardino County District Attorney's Bureau of Investigation to promptly respond to requests for assistance by other law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this Bureau of Investigation.

### 316.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from another agency should be routed to the employees supervisor 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 of Investigation, a supervisor may authorize, if available, an appropriate number of personnel to assist. Employees are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this Bureau of Investigation. The supervisor shall make the Assistant Chief Investigator of Trial Preparation aware of the request.

Investigators may respond to a request for emergency assistance that is close by. However, they shall notify a supervisor of their activity as soon as practicable so that the Bureau of Investigation may provide a controlled and coordinated response. Investigators shall keep in mind the Bureau of Investigation is not a typical first responder.

Arrestees may be temporarily detained by this Bureau of Investigation until arrangements for transportation are made by the outside agency. Only in exceptional circumstances, and subject to supervisor approval, will this Bureau of Investigation 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 investigator unless otherwise directed by a supervisor.

#### 316.3.1 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 as soon as practicable. This requirement does not apply to special enforcement details or multi-agency units that regularly work in multiple jurisdictions.

## *Outside Agency Assistance and Notification*

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### **316.4 REQUESTING OUTSIDE ASSISTANCE**

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

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

### **316.5 OUTSIDE AGENCY NOTIFICATION**

Investigators shall provide the venue agency with sufficient advanced notice prior to a planned event (Ex. search warrant service). A venue agency is described as that law enforcement agency having primary responsibility for the delivery of police services in a particular geographical area. Notification will generally be to the venue agency's watch commander. At the conclusion of the event, an exit notification to the venue agency shall be made.

Should the event result in a noteworthy incident (large seizure, arrest of a notable person, etc.) this information shall also be conveyed to the venue agency. Investigators may find it necessary to enter into a specific jurisdiction without prior coordination with the venue agency. In such instances, the venue agency will be notified as soon as is practical.

Some events may need to remain confidential depending on the type of investigation. Investigators are expected to use their best judgment, and to request guidance from the involved Supervising Investigator.

### **316.6 REPORTING REQUIREMENTS**

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented as directed by the supervisor.

## Critical and Serious Incident Notification

### 317.1 PURPOSE AND SCOPE

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

### 317.2 POLICY

When critical and serious incidents occur it is important for certain Bureau of Investigation and Office personnel to be notified as soon as practical. Proper notification during these incidents helps ensure appropriate deployment of personnel, equipment and other resources. This leads to the Law Enforcement Incident Command System (LEICS) being utilized by personnel, as necessary.

### 317.3 DEFINITIONS

Definitions related to this policy include:

**Critical Incident** - Any event that may be defined as an emergency requiring notification of command personnel, county officials and other predetermined personnel.

**Serious (Liability) Incident** - Any incident or occurrence (including traffic collisions) involving serious personal injury and/or death where the County may be implicated as a contributing factor.

### 317.4 RESPONSIBILITIES

The Critical and Serious Incident Notification Guide will be maintained by the Commander maintaining manuals and will be updated as needed.

The Notification Guide specifies notification responsibilities during certain critical and serious incidents.

[REDACTED]

[REDACTED]

## Tactical Alert Personnel Mobilization

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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## Incident Command System

### 319.1 PURPOSE AND SCOPE

The Incident Command System is a vital tool used to manage law enforcement personnel and other first responders during critical incidents, disasters, and other unusual occurrences. The purpose of this policy is to assist the Bureau of Investigation with the effective deployment and management of personnel, resources and equipment during these incidents.

### 319.2 ICS DEFINITION

The Incident Command System (ICS) is a field management system that has a number of basic system features. ICS has the flexibility and adaptability to be applied to a wide variety of incidents and events both small and large. ICS incorporates five management functions: Command, Operations, Logistics, Planning & Intelligence, and Administration & Finance. An incident may be managed by a single person when it is small. As an incident grows, the Incident Commander may become overwhelmed by a particular function. When this happens, the Incident Commander will appoint a person to that function to allow the Incident Commander to maintain control of the incident and all available resources.

### 319.3 POLICY

When a Tactical Alert has been declared, the Bureau of Investigation shall activate the Bureau Command Post (Command Post). Once the Command Post is activated, all Supervising Investigators shall report the status of their assigned personnel to the Command Post. During a critical incident, unusual occurrence or other emergency, efficient and effective deployment of Bureau of Investigation personnel is important. An Incident Commander will be appointed and the ICS should be activated and staffed by available personnel at the Command Post. Refer to the Tactical Alert Personnel Mobilization policy.

### 319.4 ICS STAFFING AND RESPONSIBILITIES

The Incident Commander's responsibility is the overall management of the incident. On many incidents, a single Incident Commander can handle the command activity. The Incident Commander is selected based on qualifications and experience. The Incident Commander shall supervise the Command Staff and the General Staff assigned to the incident. The Incident Commander should make use of the standard ICS forms included in this policy.

If the County Office of Emergency Services (OES)/Emergency Operations Center (EOC) is activated for the incident, the Incident Commander will ensure County OES receives regular updates. This role should be filled by a predesignated Department Emergency Coordinator (DEC).

The DEC will provide information to the OES/EOC via WebEOC, if possible.

#### 319.4.1 STAFF POSITIONS

The Incident Commander has oversight of the following Command Staff positions:

- (a) Public Affairs Officer

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1. This position is filled by the District Attorney's Public Affairs Officer. The Incident Commander has oversight as it relates to the Command Post but the Public Affairs Officer will take direction from the District Attorney or a designee.

- (b) Safety Officer
- (c) Liaison Officer

The Incident Commander has oversight of the following General Staff positions:

- (a) Operations Section Chief
- (b) Planning Section Chief
- (c) Logistics Section Chief
- (d) Finance/Admin Section Chief
- (e) Victim Services Section Chief

1. This position is filled by the Chief of the Bureau of Victim Services or designee.

### 319.4.2 COMMAND STAFF DUTIES AND RESPONSIBILITIES

#### Public Affairs Officer

The Public Affairs Officer is responsible for collecting information about the incident then releasing appropriate information to the news media, to incident personnel, and to other appropriate agencies and organizations. All information to be released to the public shall be directed to the District Attorney's Public Affairs Officer for dissemination. The Public Affairs Officer should consult with the Incident Commander prior to releasing information to ensure doing so would not negatively impact tactical operations.

#### Safety Officer

The Safety Officer's function is to develop and recommend measures for assuring personnel safety, and to assess and/or anticipate hazardous and unsafe situations. The Safety Officer will correct unsafe acts or conditions through the regular line of authority. The Safety Officer may exercise emergency authority to stop or prevent unsafe acts when immediate action is required.

Duties include:

- (a) Review common responsibilities.
- (b) Participate in planning meetings.
- (c) Identify hazardous situations associated with the incident.

## *Incident Command System*

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- (d) Review the Incident Action Plan (IAP) for safety implications (ICS Form 215 - Operational Planning Worksheet).
- (e) Exercise emergency authority to stop and prevent unsafe acts.
- (f) Investigate accidents that have occurred within incident areas.
- (g) Assign assistants as needed.
- (h) Review and approve the medical plan.
- (i) Maintain Unit/Activity log (ICS Form 214).
- (j) Prepare incident safety message.

### Liaison Officer

Incidents that are multijurisdictional, or have several agencies involved, may require the establishment of the Liaison Officer position on the Command Staff. The Liaison Officer is the contact for outside agency personnel assigned to the incident who are not actively assigned a tactical role.

### Duties include:

- (a) Review common responsibilities.
- (b) Provide a point of contact for assisting agency representatives.
- (c) Maintain a list of agencies and their representatives.
- (d) Assist in establishing and coordinating inter-agency contacts.
- (e) Keep agencies, who are supporting the incident, aware of incident status.
- (f) Monitor incident operations to identify current or potential inter-organizational issues and advise the Incident Commander, as appropriate.
- (g) Participate in planning meetings and provide current resource status information - including limitations and capabilities of assisting agency resources.
- (h) Maintain Unit/Activity Log (ICS Form 214).

### 319.4.3 GENERAL STAFF DUTIES AND RESPONSIBILITIES

#### Operations Section Chief

The Operations Section Chief is responsible for the management of all tactical operations directly applicable to the primary mission. The Operations Section Chief activates and supervises in accordance with the Incident Action Plan (utilizing ICS Form 215 - Operational Planning Worksheet) and directs its execution, directs the preparation of unit operational plans, requests or releases resources, makes expedient changes to the Incident Action Plan as necessary, and reports the information to the Incident Commander.

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Duties include:

- (a) Review common responsibilities.
- (b) Develop operations portion of Incident Action Plan (ICS Form 215 - Operational Planning Worksheet).
- (c) Brief and assign operations personnel in accordance with the Incident Action Plan.
- (d) Supervise Operations.
- (e) Request resources needed to implement the Operation's tactics as part of the Incident Action Plan development.
- (f) Make or approve expedient changes to the Incident Action Plan during the operational period as necessary.
- (g) Approve suggested list of resources to be released from assigned status (but not released from the incident).
- (h) Assemble and disassemble teams/task forces assigned to Operations.
- (i) Report information about changes in the implementation of the Incident Action Plan, special activities, events, and occurrences to the Incident Commander as well as the Planning Section Chief.
- (j) Maintain Unit/Activity Log (ICS Form 214).

### Branch Officer-In-Charge

The Branch Officers-In-Charge (Supervising Investigators), when activated, are under the direction of the Operations Section Chief, and are responsible for overseeing the operations of their branches and implementation of the Incident Action Plan; to include assignment of resources, and reporting on progress of control operations and status of resources within the branch. Branches may be activated when operational span of control exceeds the optimum range (one to five employees). The branch level is used to maintain span of control and unity of command.

An Office location will be considered a Branch (i.e., Central, West Valley, Victorville, Morongo).

In the event Central needs to be broken down further, groups of personnel will be created as "Resources" with a leader (refer to section 5 of ICS Form 204).

### Strike Team/Task Force

A Strike Team/Task Force reports to a Branch Officer-in-Charge and is responsible for performing tactical assignments. Work progress, resources status, and other important information is reported to a Branch Officer-in-Charge.

## *Incident Command System*

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### Single Resource

The person in charge of a single tactical resource will carry the unit designation of the resource.

Duties include:

- (a) Review common responsibilities.
- (b) Review and complete assignments.
- (c) Obtain necessary equipment/supplies.
- (d) Review weather/environmental conditions for assignment area.
- (e) Brief subordinates on safety measures.
- (f) Ensure adequate communications with Branch Officer-in-Charge.
- (g) Keep Branch Officer-in-Charge informed of progress and any changes.
- (h) Inform Branch Officer-in-Charge of problems with assigned resources.
- (i) Brief relief personnel, and advise them of any change in conditions.
- (j) Return equipment and supplies to appropriate unit.
- (k) Complete and turn in all time and use records on personnel and equipment.

### Planning Section Chief

The Planning Section Chief is responsible for the collection, evaluation, dissemination and use of information about the development of the incident and status of resources. Information is needed to:

- (a) Understand the current situation.
- (b) Predict probable course of incident events.
- (c) Prepare alternative strategies for the incident.

Duties include:

- (a) Review common responsibilities.
- (b) Activate Planning Section units, as needed.
- (c) Collect and process situation information about the incident.
- (d) Supervise preparation of the Incident Action Plan.

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- (e) Provide input to the Incident Commander and Operations Section Chief for preparation of the Incident Action Plan.
- (f) Participate in planning and other meetings as required.
- (g) Establish information requirements and reporting schedules for all ICS organizational elements for use in preparing the Incident Action Plan.
- (h) Determine need for any specialized resources in support of the incident, (i.e., deployment of the Special Response Team, Terrorism Liaison Officers, etc.).
- (i) Assign Investigative Technician(s) where needed.
- (j) Assemble information on alternative strategies.
- (k) Provide periodic predictions on the incident's potential.
- (l) Compile and display incident status summary information.
- (m) Provide status reports to appropriate requesters.
- (n) Advise General Staff of any significant changes in incident status.
- (o) Incorporate plans (e.g., Redeployment of personnel, Communication, etc.) and other supporting plans into the Incident Action Plan.
- (p) Instruct Planning Section units in distribution and routing of incident information.
- (q) Prepare recommendations for release of resources (Demobilization) and submit it to members of Incident Command.
- (r) Maintain Planning Section records.
- (s) Maintain Unit/Activity Log (ICS Form 214).

### Resource Unit Leader

The Resource Unit Leader is responsible for maintaining the status of all resources (primary and support) at an incident. This is achieved by overseeing the check-in of all resources, maintaining a status-keeping system indicating current location and status of all resources, and maintenance of a master list of all resources.

#### Duties include:

- (a) Review common responsibilities.
- (b) Obtain briefing and special instructions from the Planning Section Chief.
- (c) Participate in Planning meetings, as required.
- (d) Establish check-in function at incident locations.
- (e) Prepare Organization Assignment List (ICS Form 203) and Organization Chart (ICS Form 207).

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- (f) Prepare appropriate parts of B of I Assignment list (ICS Form 204).
- (g) Prepare and maintain the Command Post display (to include organization chart, resource allocation and deployment).
- (h) Maintain master roster of all resources checked in at the incident.
- (i) A check-in recorder reports to the Resources Unit Leader and is responsible for accounting for all resources assigned to the incident.

### Situation Unit Leader

The Situation Unit Leader is responsible for the collection, processing, and organizing of all information. The Situation Unit may prepare future projections of incident growth, maps, and intelligence information.

### Demobilization Unit Leader

The Demobilization Leader is responsible for developing the Incident Demobilization Plan, and assisting Sections/Units in ensuring that an orderly, safe, and cost effective demobilization of personnel and equipment is accomplished for the incident. On large incidents, demobilization can be quite complex, requiring a separate planning activity. (Refer to ICS Form 221 – Demobilization Check-Out)

#### Duties include:

- (a) Review common responsibilities.
- (b) Obtain briefing and special instructions from Planning Section Chief.
- (c) Prepare and obtain approval of Demobilization Plan.
- (d) Distribute Demobilization Plan to each processing point.
- (e) Ensure that all Sections/Units understand their responsibilities within the Demobilization Plan.
- (f) Demobilize in accordance with Demobilization Plan.
- (g) Monitor implementation and assist in the coordination of the Demobilization Plan.
- (h) Review incident resource records to determine probable size of demobilization effort.
- (i) Participate in Planning meetings as required.
- (j) Evaluate logistics and transportation capabilities required to support demobilization.
- (k) Brief Planning Section Chief on progress of demobilization.

## *Incident Command System*

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- (l) Provide status reports to appropriate requesters.

### Logistics Section Chief

The Logistics Section Chief is responsible for providing facilities, services, and materials in support of the incident. The Logistics Chief participates in development and implementation of the Incident Action Plan, and activates and supervises branches and units within the Logistics Section.

#### Duties included:

- (a) Review common responsibilities.
- (b) Plan organization of Logistics Section.
- (c) Assign work locations and preliminary work tasks to Section personnel.
- (d) Notify Resources Unit of the Planning Section that units have been activated including names and locations of assigned personnel.
- (e) Assemble and brief the Logistics Section Chief and the unit leaders.
- (f) Participate in preparation of Incident Action Plan.
- (g) Identify service and support requirements for planned and expected operations.
- (h) Provide input to and review other associated plans.
- (i) Coordinate and process requests for additional resources, including requests for personnel.
- (j) Review the Incident Action Plan and estimate Section needs for the next operational period.
- (k) Advise on current service and support capabilities.
- (l) Prepare service and support elements of the Incident Action Plan.
- (m) Estimate future service and support requirements.
- (n) Receive Demobilization Plan from the Planning Section.
- (o) Recommend release of unit resources in conformance with the Demobilization Plan.
- (p) Ensure general welfare and safety of Logistics Section personnel.
- (q) Maintain Unit/Activity Log (ICS Form 214).

### Finance/Admin Section Chief



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The Finance/Admin Section Chief is responsible for tracking and evaluating the costs associated with the incident. The Finance/Admin Section Chief supervises those assigned to this section.

Duties include:

- (a) Review common responsibilities.
- (b) Obtain briefing from Incident Commander.
- (c) Brief Office finance/administrative representative.
- (d) Attend planning meeting.
- (e) Provide financial updates to executive management.
- (f) Periodically gather updated information on additional equipment/supply and personnel needs, and additional expenses incurred.
- (g) Meet with cooperating agencies to determine cost-sharing agreements and financial obligations.
- (h) Ensure completeness of documentation submitted for expenses incurred (including payroll).
- (i) Assist Logistics Section with resource procurement.
- (j) Coordinate Finance/Admin demobilization with the Planning Section.

### Victim Services Section Chief

The Victim Services Section Chief is responsible for management of all operations applicable to the response of Bureau of Victim Services personnel to the incident.

Duties include:

- (a) Obtain briefing from Incident Commander.
- (b) Assess the scope of the request for victim advocate response.
- (c) Notify the Office's Executive Management Staff of potential Bureau of Victim Services involvement.
- (d) Request transportation for Crisis Response Team.
- (e) Request Purchase Cards from the Office's Management Services.
- (f) Assemble and brief the Crisis Response Team on incident details.
- (g) Obtain resource information to be provided at the scene.
- (h) Supervise Bureau of Victim Services operations to include making or approving expedient changes during the operational period as necessary.

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- (i) Coordinate with the lead agency (federal, state and or local) working at the scene.
- (j) Report information about changes in the plan implementation, special activities, events, and occurrences to the Incident Commander.
- (k) Daily debriefing of Crisis Response Team to include a debriefing with The Counseling Team International.
- (l) Provide updates to the Office's Executive Management Staff.

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## Debriefing of Critical Incidents

### 321.1 PURPOSE AND SCOPE

To ensure a proper debriefing occurs, the following establishes a uniform policy for critical incident debriefing, defines roles and responsibilities for debriefing, discusses the proper completion of an after-action report and provides for the distribution of applicable training materials.

### 321.2 DEFINITIONS

**After-Action Report** – Intended to identify strengths, weaknesses, recommended improvements and relevant training for personnel. The report should accurately define what occurred or did not occur with regard to a particular incident. The report summarizes the chronology of the critical incident as well as analysis of the tactics, equipment, communication, cooperation, and level of preparedness of participants.

**Debriefing** – The after-action process of discussion and reconstruction of a critical incident with the goal of providing a record of lessons learned and encouraging continuous improvement in organizational and individual performance.

**Critical Incident** – Defined as:

- (a) Any incident involving investigators using lethal force.
- (b) Any unplanned occurrence which threatens the peace or safety of the Office or community.
- (c) Any planned or unplanned event which requires the implementation of the law enforcement command structure to manage assets and response.
- (d) Any other incident requiring the use of significant Bureau of Investigation assets or which is deemed to be significant by the Chief Investigator or commanding officer for that incident.

### 321.3 POLICY

It shall be the policy of the Bureau of Investigation to conduct a debriefing of any critical incident.

An after-action report will be prepared by the Assistant Chief Investigator of Trial Preparation or designee, and forwarded to the Chief Investigator for the purposes of developing a training needs assessment, and dissemination of lessons learned.

### 321.4 DEBRIEFING GUIDE

The debriefing should follow the established protocol.



## Off-Duty Law Enforcement Actions

### 322.1 PURPOSE AND SCOPE

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

### 322.2 POLICY

Initiating law enforcement action while off-duty is generally discouraged. Investigators should not attempt to initiate enforcement action when witnessing minor crimes, such as suspected intoxicated drivers, reckless driving or minor property crimes. Such incidents should be promptly reported to the appropriate law enforcement agency.

Investigators are not expected to place themselves in unreasonable peril. However, any sworn member of this Bureau of Investigation who becomes aware of an incident or circumstance that he/she reasonably believes poses an imminent threat of serious bodily injury or death, or significant property damage may take reasonable action to minimize the threat.

When public safety or the prevention of major property damage requires immediate action, investigators should first consider reporting and monitoring the activity and may take direct action as a last resort.

### 322.3 FIREARMS

Investigators may carry firearms while off-duty in accordance with federal and state regulations, and Bureau of Investigation policy. All firearms and ammunition must meet guidelines as described in the Bureau of Investigation Firearms Policy. When carrying firearms while off-duty investigators shall carry their Bureau of Investigation-issued photo identification, and should carry their Bureau of Investigation-issued badge (regular or flat badge).

Investigators should refrain from carrying firearms when the consumption of alcohol is likely or when the need to carry a firearm is outweighed by safety considerations. Firearms shall not be carried by any investigator who has consumed an amount of an alcoholic beverage or taken any drugs or medications or any combination thereof that would tend to adversely affect the investigator's senses or judgment.

### 322.4 DECISION TO INTERVENE

There is no legal requirement for off-duty investigators to take law enforcement action. However, should investigators decide to intervene, they must evaluate whether the action is necessary or desirable, and should take into consideration the following:

- (a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.

## *Off-Duty Law Enforcement Actions*

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- (b) The inability to communicate with responding units.
- (c) The lack of equipment, such as handcuffs, OC or baton.
- (d) The lack of cover.
- (e) The potential for increased risk to bystanders if the off-duty investigator were to intervene.
- (f) Unfamiliarity with the surroundings.
- (g) The potential for the off-duty investigator to be misidentified by other peace officers or members of the public.

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

### **322.4.1 INTERVENTION PROCEDURE**

If involvement is reasonably necessary the investigator should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty investigator is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the investigator should loudly and repeatedly identify him/herself as a police officer until acknowledged. Official identification should also be displayed.

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

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

### **322.4.3 PROFESSIONAL STAFF RESPONSIBILITIES**

Professional staff should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

## **322.5 REPORTING**

Any off-duty investigator who engages in any law enforcement activity, regardless of jurisdiction, shall notify the his/her supervisor as soon as practicable. The supervisor shall determine whether a report should be filed by the employee.

Investigators should cooperate fully with the agency having jurisdiction in providing statements, reports and/or courtroom testimony as requested or as appropriate.

# Special Response Team / Special Investigations Unit

## 323.1 PURPOSE AND SCOPE

The purpose of this policy is to identify how the Special Response Team and the Special Investigations Unit generally provide assistance to Office personnel.

## 323.2 POLICY

The Special Response Team (SRT) and the Special Investigations Unit (SIU) will provide investigative and enhanced tactical support to District Attorney's Office personnel. SRT members, which includes the investigators assigned to SIU, will receive special training so they are prepared for a specialized and coordinated response to a variety of situations and assignments.

## 323.3 TYPES OF ASSISTANCE PROVIDED - SRT

The Special Response Team (SRT) provides assistance in a variety of ways, as needed, including but not limited to:

- (a) Protection of the District Attorney and Office personnel.
- (b) Threat analysis.
- (c) Witness protection.
- (d) Surveillance.
- (e) Arrest warrant and search warrant service for Office investigations and to assist other law enforcement agencies.
- (f) Participation in special events with and/or for other law enforcement agencies.
- (g) Team tactical assistance for other law enforcement agencies when authorized by the Chief Investigator or designee.
- (h) Special assignments which may be of a confidential or sensitive nature, at the direction of the Chief Investigator or designee.

## 323.4 ORGANIZATION AND STRUCTURE

The Special Response Team (SRT) will be composed of investigators. The Chief Investigator or designee will select the team's supervisor. The supervisor will be responsible for team coordination and response, training, training records, equipment, equipment records, team member records and the overall effectiveness of the team. The supervisor will report directly to the Commander of Trial Preparation unless directed otherwise by the Chief Investigator. **Assignment to the team is considered a voluntary, part-time and ancillary duty.** Management reserves the right to remove an investigator from the team if he/she is not able to maintain the minimum prescribed standards, or if in the reasonable opinion of management, the investigator is unable to maintain the skill level, professionalism, or adaptability necessary for the continued participation in the assignment.

## *Special Response Team / Special Investigations Unit*

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### **323.5 PERSONNEL STANDARDS AND SELECTION**

When vacant positions exist on the team, the Commander of Trial Preparation, with input from the SRT supervisor and the Commander of Specialized Prosecution, will present recommendations to the Chief Investigator who will then select the investigator who will fill the vacancy. Each candidate and existing SRT member must continuously meet certain standards to be on the team. Team members are expected to maintain an exemplary level of physical fitness. Team members who do not meet the established minimum standards will be dismissed from the team.

Minimum standards for SRT members are as follows:

- (a) Completion of the first year of employment with the Bureau of Investigation in good standing (unless waived by the Chief Investigator).
- (b) Achieve an overall work performance evaluation rating of "Meets Standards" or above for the most recent evaluation period.
  - 1. The continued participation of all team members is contingent upon their ability to maintain their caseload at their regular assignment. Team members who become involved in cases which require their uninterrupted attention, or who are unable to manage their caseloads because of SRT demands, may be removed from the team.
    - (a) Team members who are removed from the team because of demanding caseloads may be reinstated upon receipt of a memorandum from their supervisor indicating that the investigator's caseload has been brought to a manageable level, and his/her participation with the team would not adversely affect his/her regular duty assignment performance. Reinstatement may occur only when there is an opening on the team and after approval from the Chief Investigator.
- (c) Participate in and successfully pass the established annual physical fitness test.
  - 1. All team members shall be notified in writing three months prior to the scheduled physical agility testing date. Personnel who fail to successfully pass the scheduled test shall be scheduled for a retest date to be conducted no sooner than six weeks from the date of the initial test.
- (d) Participate in and successfully pass the established firearms qualification.
- (e) Attend and fully participate in all Special Response Team training, unless an absence is authorized. Authorized absences include scheduled vacations, court appearances, official travel, scheduled priority training, personal/family illness or other activity authorized by a Supervising Investigator, an Commander or the Chief Investigator.
- (f) Assignment to the team is voluntary, the Chief Investigator or designee may remove a team member without appeal or compensation.
- (g) The selection process will include an evaluation of the candidate's commitment and voluntary availability for assignments as needed. Assignments may or may not occur during regular Office hours. When an assignment occurs during off-duty hours, compensation will not begin until the team member is actually activated.

**323.6 TRAINING AND EQUIPMENT**

[REDACTED]

**323.7 CRITICAL INCIDENTS AND OTHER EMERGENCY OPERATIONS**

When made aware of a critical incident or other emergency that may affect the Office, SRT members shall contact their respective Supervising Investigator as soon as is practical for initial assignment. SRT members will be contacted by the SRT supervisor, or designee, if they are to stage as a team for potential deployment. This will be done in collaboration with the Chief Investigator or the person who has been designated as the Incident Commander. Refer to the Tactical Alert Personnel Mobilization policy and the Incident Command System policy for additional information.

The team shall debrief all of their deployments that occur during critical incidents and other emergency operations. The subject matter should include, at a minimum: effectiveness of team deployment and equipment, interaction with allied agencies, recommendations for equipment, and training to prepare for future deployments.

**323.8 SPECIAL INVESTIGATIONS UNIT**

The Special Investigations Unit (SIU) will be composed of two investigators who shall also be members of the Special Response Team (SRT). Other SRT investigators may be assigned to handle SIU responsibilities when one or both SIU investigators are unavailable (vacation, attending training, etc.). The Chief Investigator or designee will select a Supervising Investigator, who is a member of SRT, to supervise SIU. The supervisor will oversee SIU's day-to-day work, training, equipment, personnel files and the overall effectiveness of SIU investigators. The SIU supervisor will report directly to the Commander of Operations, unless directed otherwise by the Chief Investigator. The Chief Investigator or designee may reassign the Supervising Investigator for SIU, and any investigator assigned to SIU, at any time without appeal or compensation.

## *Special Response Team / Special Investigations Unit*

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### 323.8.1 PERSONNEL STANDARDS AND SELECTION

When vacant positions exist in the unit, investigators may apply. If an investigator who applies is not a member of SRT, that investigator must be selected as a new member according to the SRT criteria stated above. The Commander of Trial Preparation, with input from the SIU supervisor and the Commander of Specialized Prosecution, will present recommendations to the Chief Investigator who will then select the investigator who will fill the vacancy. Each SIU candidate and existing SIU investigator is expected to continuously meet or exceed the minimum standards established for SRT members.

### 323.8.2 TYPES OF ASSISTANCE PROVIDED

Investigators assigned to the Special Investigations Unit (SIU) will be responsible for handling a variety of tasks, including but not limited to:

- (a) Provide security and protection services for the SBCDA Executive Staff and others when requested by the District Attorney or designee. This may include planning, staffing and assessing the needs for any given security or protection detail.
- (b) Investigate and evaluate threats made toward SBCDA personnel that may be as a result of their employment with SBCDA.
- (c) Investigate all threats of damage or hinderance focused on SBCDA facilities or functions.
- (d) Assist, as needed, with protection and escort details for witnesses in criminal cases who have been threatened with bodily harm as a result of cooperating with SBCDA prosecution efforts (ex. CalWRAP).
- (e) Examine, evaluate and recommend improvements for the safety and security measures at all SBCDA facilities. Provide other SBCDA related protection services when authorized by the Chief Investigator or designee.
- (f) Assist with the extradition, transport and/or escort of suspects, inmates or witnesses who are deemed high-profile, high-risk or have other security related concerns.
- (g) Assist the Commander of Specialized Prosecution with background investigations of SBCDA employee or volunteer candidates, janitorial staff applicants and vendors who will be working at SBCDA facilities.
- (h) Conduct security and safety training of existing and newly appointed SBCDA personnel.
- (i) Complete special assignments which may be of a confidential or sensitive nature, at the direction of the Chief Investigator or designee.
- (j) Be on-call to respond to after-hours alarm activations at SBCDA facilities, and provide necessary after-hours protection and investigative services at the direction of the SIU supervisor or designee. (On-call pay will be provided to the supervisor and investigators assigned to SIU. One SIU investigator and the SIU supervisor should be available after-hours on any given day. Any time the SIU Supervising Investigator becomes unavailable, another SRT Supervising Investigator should be designated as the replacement. On-call compensation will be based on the current Safety Unit MOU, and the Safety Management and Supervisory Unit MOU.)

### *Special Response Team / Special Investigations Unit*

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#### 323.8.3 INITIAL NOTIFICATION AND RESPONSE

Once an on-duty investigator is made aware of a threat or potential threat made toward the SBCDA or personnel, the investigator shall contact SIU to determine whether SIU investigators should become involved - and to what extent. When necessary, additional investigators will be assigned to assist, preferably by the SIU supervisor. The Chief Investigator will be notified as soon as is practical, preferably via the chain of command.

All formal action taken by SIU investigators will be documented and debriefed according to established protocol.





*Response to Bomb Calls*

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- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]



*Response to Bomb Calls*

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- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
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[REDACTED]

- [REDACTED]
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- [REDACTED]
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

## Rapid Response and Deployment

### 325.1 PURPOSE AND SCOPE

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

### 325.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services.

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

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

### 325.4 RAPID RESPONSE OUTSIDE OF THE OFFICE

If there is a reasonable belief that acts or threats by a suspect outside of the office are placing lives in imminent danger, investigators in proximity may assist and should consider reasonable options to reduce, prevent or eliminate the threat. Investigators must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources. When practical, investigators should contact their supervisor before deploying to assist so that the response is controlled and coordinated. Otherwise, investigators shall notify their supervisor as soon as is practical.

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

*Rapid Response and Deployment*

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[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
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- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

# Foreign Diplomatic and Consular Representatives

## 326.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that investigators extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

## 326.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them. Consulate offices are currently located in San Bernardino County.

## 326.3 CLAIMS OF IMMUNITY

If an investigator comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the investigator should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

## *Foreign Diplomatic and Consular Representatives*

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### **326.4 ENFORCEMENT**

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

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
  1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
  1. Diplomatic-level staff of missions to international organizations and recognized family members
  2. Diplomatic agents and recognized family members
  3. Members of administrative and technical staff of a diplomatic mission and recognized family members
  4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
  1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
  2. Support staff of missions to international organizations
  3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
  4. Honorary consular officers
  5. Whenever an investigator arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the investigator shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the investigator shall begin the notification process.

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## Foreign Diplomatic and Consular Representatives

### 326.5 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.

### 326.6 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
<b>Diplomatic Agent</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Member of Admin and Tech Staff</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Service Staff</b>	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
<b>Career Consul Officer</b>	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
<b>Honorable Consul Officer</b>	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
<b>Consulate Employees</b>	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))
<b>Int'l Org Staff (note (b))</b>	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability



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## *Foreign Diplomatic and Consular Representatives*

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<b>Diplomatic-Level Staff of Missions to Int'l Org</b>	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
<b>Support Staff of Missions to Int'l Orgs</b>	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.

## Public Recording of Law Enforcement Activity

### 327.1 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 employees of the Bureau of Investigation. In addition, this policy provides guidelines for situations where the recordings may be evidence.

### 327.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation recognizes the right of persons to lawfully record employees of this Bureau of Investigation who are performing their official duties. Employees 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 employees performing their official duties.

### 327.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present (Penal Code § 69; Penal Code § 148).
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
  - 1. Tampering with a witness or suspect.
  - 2. Inciting others to violate the law.
  - 3. Being so close to the activity as to present a clear safety hazard to the investigators.
  - 4. Being so close to the activity as to interfere with an investigator's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the investigators, him/herself or others.

### 327.4 INVESTIGATOR RESPONSE

Investigators should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, investigators should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

## *Public Recording of Law Enforcement Activity*

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Whenever practicable, investigators or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an investigator could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, investigators shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

### **327.5 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 of Investigation employees, such as how and where to file a complaint.

### **327.6 SEIZING RECORDINGS AS EVIDENCE**

Investigators should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
  1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
  1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.

## *Public Recording of Law Enforcement Activity*

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2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a Bureau of Investigation-owned device.

Investigators shall comply with the California Electronic Communications Privacy Act (CalECPA).

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

## Foot Pursuits

### 328.1 PURPOSE AND SCOPE

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

### 328.2 POLICY

It is the policy of this Bureau of Investigation 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 investigators, the public or the suspect.

Investigators are expected to act reasonably, based on the totality of the circumstances.

### 328.3 DECISION TO PURSUE

The safety of investigators 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 of Investigation employees.

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 should 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 investigators 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.
- (d) Thermal imaging or other sensing technology.

## *Foot Pursuits*

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- (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.

### **328.4 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(s) 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.
- (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

## *Foot Pursuits*

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is no immediate threat to investigators 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.

### **328.5 RESPONSIBILITIES IN FOOT PURSUITS**

#### **328.5.1 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 law enforcement personnel 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, 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.

#### **328.5.2 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.

### *Foot Pursuits*

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#### **328.5.3 SUPERVISOR RESPONSIBILITIES**

Upon becoming aware of a foot pursuit, the supervisor should respond to the area whenever possible. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established Bureau of Investigation 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.

#### **328.6 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 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.



## Vehicle Towing and Release

### 329.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle, though nothing in this policy shall require the Bureau of Investigation to tow a vehicle.

### 329.2 STORAGE AND IMPOUNDS

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

#### 329.2.1 VEHICLE STORAGE REPORT

Investigators requesting towing, storage or impound of a vehicle shall complete CHP Form 180 and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should be given to the tow truck operator and the original shall be submitted as soon as practical to an Investigative Technician who is authorized to make vehicle entries into CLETS.

#### 329.2.2 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this Bureau of Investigation to provide reasonable safekeeping by storing the arrestee's vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high-crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases, the owner shall be informed that the Bureau of Investigation will not be responsible for theft or damages.

#### 329.2.3 DRIVING A NON-COUNTY VEHICLE

Vehicles which have been towed by or at the direction of the Bureau of Investigation should not be driven by an employee unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

# San Bernardino County District Attorney's Bureau of Investigation

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### *Vehicle Towing and Release*

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#### **329.2.4 REQUESTING A TOW TRUCK**

When a tow truck is needed, an investigator should contact dispatch for the law enforcement agency having jurisdiction and ask that an authorized towing service be dispatched.

#### **329.2.5 RESPONSIBILITY FOR ENTERING TOW DATA**

An authorized Investigative Technician shall promptly enter pertinent data from the completed storage form (CHP Form 180) into the Stolen Vehicle System (CLETS) and return the form to a Supervising Investigator for approval (Vehicle Code § 22651.5(b); Vehicle Code § 22851.3(b); Vehicle Code § 22854.5).

Approved storage forms shall be promptly placed with the lead investigator's reports, with a copy being submitted to the Custodian of Records, so that they are immediately available for release or review should inquiries be made.

Within 48 hours, excluding weekends and holidays, of the storage of any such vehicle it shall be the responsibility of the lead investigator to determine the names and addresses of any individuals having an interest in the vehicle through DMV or CLETS. Notice shall be sent to all such individuals by first-class mail (Vehicle Code § 22851.3(d); Vehicle Code § 22852(a); Vehicle Code § 14602.6(a)(2)). The notice shall include the following (Vehicle Code § 22852(b)):

- (a) The name, address, and telephone number of this Bureau of Investigation.
- (b) The location of the place of storage and description of the vehicle, which shall include, if available, the name or make, the manufacturer, the license plate number, and the mileage.
- (c) The authority and purpose for the removal of the vehicle.
- (d) A statement that, in order to receive their post-storage hearing, the owners, or their agents, shall request the hearing in person, writing, or by telephone within 10 days of the date appearing on the notice.

#### **329.2.6 VEHICLE STORAGE LOCATION**

Whenever a vehicle must be towed and stored as evidence for a case, the employee shall consult with a Supervising Investigator to determine the most cost effective and/or appropriate location to store the vehicle. For a vehicle needing to be stored more than one week, a Commander shall be consulted.

### **329.3 VEHICLE INVENTORY**

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Employees conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in custody of the Bureau of Investigation, to provide for the safety of investigators, and to protect the Office against fraudulent claims of lost, stolen, or damaged property.

## *Vehicle Towing and Release*

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### **329.4 SECURITY OF VEHICLES AND PROPERTY**

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, investigators should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

### **329.5 RELEASE OF VEHICLE**

Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

- (a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (b) Vehicles removed that require proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment, completion of affidavit and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his/her agent with proof of current registration, proof of a valid driver's license and applicable fees paid prior to the end of the 30-day impoundment period under any of the following circumstances:
  - (a) The vehicle was stolen.
  - (b) If the driver reinstates his/her driver's license or acquires a license and provides proof of proper insurance.
  - (c) Any other circumstance as set forth in Vehicle Code § 14602.6.
  - (d) When there is no remaining community caretaking need to continue impound of the vehicle or the continued impound would not otherwise comply with the Fourth Amendment.

Personnel whose duties include releasing towed vehicles, a Supervising Investigator or designee, should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a Supervising Investigator. Supervising Investigators should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

Immediately after a vehicle is released, the person facilitating the release shall have an authorized Investigative Technician remove the vehicle from the Stolen Vehicle System (CLETS). The

### *Vehicle Towing and Release*

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completed release paperwork, a printout showing the removal of the vehicle from CLETS, and any other relevant reports and documents shall be submitted to the Custodian of Records.

## Vehicle Impound Hearings

### 330.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

### 330.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any employee of the San Bernardino County District Attorney's Bureau of Investigation, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)). The hearing officer will be a Supervising Investigator, designated by the Chief Investigator or designee.

#### 330.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)). The Supervising Investigator of the employee who caused the storage or removal of the vehicle will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2); Vehicle Code § 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Bureau of Investigation.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code §14602.6(b); Vehicle Code § 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly

## *Vehicle Impound Hearings*

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licensed may constitute a mitigating circumstance under Vehicle Code § 14602.6(b) or 14602.8(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this Bureau of Investigation's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

- (a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.
  - 1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.
- (b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Bureau of Investigation's expense (Vehicle Code § 22852(e)).
- (c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the appropriate Commander. The hearing officer will recommend to the appropriate Commander that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the Bureau of Investigation.

## Political Activity

### 331.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to ensure employees who are engaged in political activity do so as permitted by law, and as deemed appropriate by the District Attorney's Office.

### 331.2 POLICY

It is not the intention of the Bureau of Investigation to restrict an employee's right to work off-duty for political candidates and issues, or to seek public office. However, employees must be cognizant that they are working in a public law enforcement agency headed by an elected official. Employees must remain aware that all political activity must remain completely separate from the District Attorney's Office and no public time or public resources shall be used for any such activity. No endorsements shall be given utilizing the name of the Office or office affiliation without the prior approval of the Chief Investigator and the District Attorney. Employees are directed to be familiar with all laws, County policies, County personnel rules and MOU provisions relating to political activities; in particular those areas pertaining to public employees and/or peace officers.

### 331.3 NOTIFICATION

The Chief Investigator shall be notified through the chain of command as soon as reasonably possible when an employee intends to engage in outside political activity or run for political office wherein a potential conflict of interest may occur. Whenever an employee deems there may be a conflict, it is advisable that these matters be discussed with the Chief Investigator or designee for both the protection of the employee and the interest of the Office.

### 331.4 ACTING IN AN OFFICIAL CAPACITY

This policy does not prevent an employee from engaging in approved activities when acting as a designated representative of the Office in an official capacity, such as working on law enforcement-related legislation, testifying before the legislature or other government bodies on law enforcement issues and legislation, or engaging in a department-approved professional law enforcement association's legislative programs.

### 331.5 RESOURCES

Some applicable resources:

1. California Government Code § 3203 - 3209
2. Peace Officers Procedural Bill of Rights Act - California Government Code § 3300-3311
3. County Personnel Rule 10.2
4. County Policy 12-07
5. County Code section 13.0402(c)

*Political Activity*

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6. 5 U.S.C. section 1501 et seq



## Office Security

### 332.1 PURPOSE AND SCOPE

This policy addresses District Attorney's Office security and employee safety concerns.

### 332.2 POLICY

The physical security of District Attorney's Office facilities and safety of Office employees are of paramount concern. The Bureau of Investigation is responsible for making sure Office facilities are secure, ensuring criminal offender record regulations are followed, conducting background investigations on potential new employees, and transporting prisoners or suspects as needed. These guidelines should be adhered to whenever practical.

### 332.3 EMERGENCY SITUATIONS

- (a) Security procedures may be initiated in any District Attorney's Office facility according to the needs and concerns of that facility. All employees shall make themselves familiar with these procedures and fully comply with them.
  - 1. Critical incident policies
    - (a) Critical and Serious Incident Notification
    - (b) Tactical Alert Personnel Mobilization
    - (c) Incident Command System (I.C.S.)
    - (d) Evacuations
    - (e) Debriefing of Critical Incidents
  - 2. Emergency Action Plans (E.A.P.)
  - 3. Department Emergency Operations Plan (D.E.O.P.)
- (b) All District Attorney's Office personnel are required to cooperate with the Bureau of Investigation in all matters involving office security and emergency operations, such as fire alarms, bomb threats, sudden human violence and breaches of security.
- (c) During an emergency situation, it is the duty of the Bureau of Investigation to conduct investigations, building searches and physically remove all personnel from the building when deemed necessary during disasters, fire, safety-related situations or bomb threats.

### 332.4 BREACHES OF SECURITY AND SECURITY PASSES

An investigator who notices a security breach, suspicious circumstance, or unidentified or unauthorized person without a pass shall take action immediately to identify, correct and report the occurrence as necessary. Persons without a pass who have a legitimate reason for visiting the office should be directed to the front desk where the person who authorized their entry may be contacted and a pass may be issued. If any personnel do not receive cooperation from the

## Office Security

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person being contacted, the occurrence shall be reported to the Chief Investigator via the chain of command.

### 332.5 SECURITY OF ACCESS DOORS

- (a) Employees of the District Attorney's Office shall not disclose door lock combination(s) to nonemployees, or give any person their key or security card to any office or facility for any reason. These items are restricted to Office personnel only.
- (b) All employees shall make sure that Office doors properly lock when traveling into or out of all offices and facilities. These doors are not to be propped open and left unattended for any reason. Bureau of Investigation personnel shall be responsible for double-checking all access doors prior to leaving the office, when it is unattended or closed after regular hours, to ensure that all doors and access routes are secure.
- (c) [REDACTED]
- (d) Non-county employees shall not be granted unescorted access to an Office facility to affect repairs or make deliveries after-hours. Prior to formalizing any scheduled repair, equipment installation, or other work requiring access to a DA facility, the supervisor responsible for the security of a facility shall be notified of the need for access to the facility during non-standard work hours. This notification shall be made at least 48 hours in advance of the required access, except in the event of an emergency situation.

The supervisor responsible for the facility shall make the necessary arrangements to ensure an employee of the Bureau of Investigation will be present to supervise access to the building after-hours.

The supervisor for the facility in question should consider notifying the Chief Deputy DA responsible for the facility when repairs or deliveries to a facility have been scheduled after-hours.

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

## Office Security

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### 332.7 VISITORS

- (a) No person shall be allowed entry to any Office facility unless he/she is an employee of the Office, a County employee with the need and right to access the facility to perform maintenance functions, an authorized member of a law enforcement agency conducting business, or an authorized visitor of an employee of the Office.
- (b) Any law enforcement officer or private citizen visiting an employee must have the permission of that employee to enter the facility PRIOR to entering the secured areas of a facility. The receptionist WILL NOT allow a visitor to enter a facility prior to making personal or telephonic contact with the employee being visited. If contact cannot be made, the visitor will be extended the opportunity to leave a message for the employee, but the visitor WILL NOT be allowed access to the facility unless approved and escorted by a deputy district attorney or an investigator.
- (c) If an employee is expecting a visitor, he/she should notify the receptionist prior to the visitor's arrival.
- (d) The receptionist is not responsible for escorting visitors to their destination. It is incumbent upon the individual being visited to ensure the visitor (when required under this policy) is provided with an escort.
- (e) All visitors may be issued a badge or identification card, which is to be worn on their outer clothing and in plain view at all times while in the facility. Visitors, upon leaving the facility, will surrender visitor badges and identification cards. Peace officers or other government officials will be required to wear their badges or government I.D. cards in lieu of a visitor's badge.
- (f) Visitors, such as victims and witnesses, should not be left unattended UNLESS the Deputy DA, Victim Witness Advocate, investigator or investigative technician coordinating the activities of the visitor makes arrangements for another Office employee to monitor the activities of the unattended victim or witness. If the visitor has a need to leave the building, or office area within a building shared with other tenants, he/she should be escorted in order to avoid becoming lost. If the visitor needs to use the restroom within our office area, the visitor should be escorted to the restroom to avoid allowing that person to freely walk around. If the visitor is leaving for the day, he/she should be escorted to the front desk to sign out and drop off the visitor pass.
- (g) The front desk receptionist shall maintain a sign-in roster for all visitors other than Office employees, law enforcement personnel (including Court Officers) and defense attorneys. Anyone bringing in visitors other than law enforcement personnel shall identify them to the receptionist and have them sign the roster and obtain a visitor badge. The roster shall include the visitor's name, date, time-in, and reason for visit, including who the visitor is there to see. Facilities with no assigned receptionist, or ten or fewer Deputy DA's assigned to the office, shall not be required to maintain a sign-in roster or visitor passes.

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## Office Security

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- (l) [REDACTED] displays their badge or law enforcement identification card in a conspicuous place.
- (i) The production of official visitor badges for all facilities shall be the responsibility of the Bureau of Investigation, who will monitor their use and make necessary changes in their design as needed or required.
- (j) All volunteer personnel shall wear an appropriate badge as issued by the Bureau of Investigation identifying them as volunteers.
- (k) Access to Office facilities is controlled. In order to control access and maintain security, ALL access to an Office facility by visitors shall be through the receptionist area, except in cases where the visitor is escorted by a Deputy DA or investigator.
- (l) Many conversations that occur in Office facilities involve case strategy or material that is confidential in nature. For these reasons, ANY attorney or investigator engaged in criminal defense work MUST be escorted while inside an Office facility. Employees are reminded that conversations held in areas of the office which are accessible by visitors or other employees are not environments conducive to private conversations. Private conversations are best held in moderate tones in a private office behind closed doors.
- (m) In any case where an employee is temporarily or permanently relieved of duty, the Bureau of Investigation shall be notified and they will notify the office staff of Office facilities that the employee is not authorized to enter. Information provided to control/limit facility access is to be treated confidentially, but will be disseminated to those with a "need to know" in order to prevent confrontational situations and comply with the County Policy concerning violence in the workplace. The Bureau of Investigation shall notify the responsible Supervising Deputy DA and Chief Deputy DA of the action(s) taken.
- (n) Because of the sensitive nature of the information handled by the District Attorney's Office and regulations restricting access to areas where such information is maintained, access to Office facilities is strictly regulated. Under no circumstances shall any County employee, contract employee, vendor or other service provider have unescorted physical or electronic access to an Office facility without having satisfactorily completed a District Attorney's Office background investigation which includes an automated fingerprint criminal record check through the Federal Bureau of Investigation and California Department of Justice. The Bureau of Investigation shall conduct this background check. County employees, contract employees, vendors or other service providers who have access to District Attorney facilities without an escort shall submit to such a background record check and have a "subsequent arrest notification" contract in place for the duration of their access to the District Attorney's facilities.

With good cause being shown, temporary variances to this policy may be granted by a Supervising Investigator or Chief Deputy DA for situations that merit such a variance.

## *Office Security*

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### **332.8 HANDLING PRISONERS AND SUSPECTS**

- (a) Whenever a prisoner is brought into any office of the District Attorney, the Chief Deputy DA of that division, the Supervising Deputy DA and the appropriate Supervising Investigator shall be notified of the prisoner's arrival. If the prisoner is being brought to an office that shares a building with the courts, the Sheriff's supervisor of court services shall also be notified.
- (b) Any prisoners or suspects to be interviewed shall be checked for weapons and unauthorized property, and properly secured at all times; and not left unattended in an office or facility for any reason. Sworn law enforcement personnel will continually attend to prisoners. Prisoners shall not be brought to a District Attorney's Office facility without prior approval from a Supervising Investigator. (This is also addressed in the Handcuffing and Restraints policy.)

### **332.9 CRIMINAL OFFENDER RECORDS**

In addition to being responsible for the general security of all Office locations, the Chief Investigator is the criminal records security officer (as prescribed by state law) and is given the responsibility for maintaining compliance with regulations prescribed by the California State Department of Justice. The Chief Investigator or designee is given authority commensurate with these duties. The Chief Investigator or designee will make periodic checks of the various divisions of the Office countywide to ensure necessary security is maintained. The Chief Investigator or designee will see to it that proper records are kept, and will oversee the destruction of rap sheets and criminal records.

### **332.10 BACKGROUND INVESTIGATION OF POTENTIAL EMPLOYEES AND CONTRACTORS**

- (a) Whenever any contingent job offer is extended to a potential new employee of the District Attorney's Office, it shall be the duty of the Bureau of Investigation to conduct a background investigation on the employee. This shall apply whether the new employee is a full-time employee, a temporary employee, volunteer or a contract employee and shall apply to all positions including attorneys, clerical and janitorial.
- (b) Background forms will be completed on every potential employee, including a release signed by the prospective employee authorizing the background check. Obtaining the completed forms is the responsibility of the employee entrusted with extending the contingent job offer. This material shall be forwarded to the Chief Investigator's Secretary or designee for processing. Background investigations shall be composed of standardized checks, specific to the classification the potential employee is applying for, and will include a fingerprint check. Results of the background investigation will be disseminated as soon as they are available. If a potential employee fails a background investigation, the applicant shall not be informed of the specific reason for failure but rather will be notified they failed to successfully pass the background investigation.

## Traffic Stops

### **333.1 POLICY**

The emergency vehicles assigned to investigators are unmarked vehicles equipped with emergency equipment (red light and siren) to be used for law enforcement purposes. Investigators are permitted to conduct traffic stops provided they are performed as required by the California Vehicle Code and this policy. This policy is intended to comply with California Vehicle Code § 17004.7.

### **333.2 TRAFFIC STOPS DEFINED**

When an investigator activates his/her emergency vehicle's forward facing red light (and siren, as required), based on having reasonable suspicion or probable cause that a public offense has been or is being committed, in order to cause the operator of another motor vehicle to stop his/her vehicle.

### **333.3 REASONS FOR TRAFFIC STOPS**

Traffic stops involving the use of emergency vehicle equipment (activation of the forward facing red light and siren, as required) by an investigator are permitted only in the following circumstances, and provided the investigator complies with this policy and the California Vehicle Code:

- (a) To make an arrest.
- (b) To assist other law enforcement agencies in a joint operation.
- (c) To apprehend a dangerous felon.
- (d) In life-threatening or serious injury situations when the purpose is for the protection and preservation of life.
- (e) To serve a search warrant, arrest warrant or other lawful process.
- (f) When facts can be articulated that establish a public safety need.

Prior to conducting a traffic stop, it is preferred the investigator make radio contact with the jurisdiction's law enforcement agency where the traffic stop will take place. If such prior contact cannot be established, contact shall be made as soon thereafter as possible. Initiating a traffic stop without the presence of a marked law enforcement vehicle, or back-up law enforcement personnel should be avoided whenever possible.

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*Undercover Operations*

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## Extraditions

### 335.1 PURPOSE AND SCOPE

This policy instructs investigators on how to properly accomplish the extradition of an inmate for the purposes of a criminal case being prosecuted by the District Attorney's Office.

### 335.2 POLICY

It is the policy of the District Attorney's Office to extradite defendants on felony cases where the defendant, if convicted, will be exposed to a state prison sentence. The San Bernardino County Sheriff's Department should be used to extradite subjects when practical. Some cases, with the approval of the Chief Investigator or designee, may require that investigators handle the extradition. Each extradition will be evaluated separately, for cost effectiveness and prudent use of resources. Only investigators who have completed the Federal Aviation Administration (FAA) Flying Armed Course shall be allowed to extradite a prisoner via a commercial flight. Investigators shall follow FAA and Transportation Security Administration (TSA) regulations. The below procedures should also be followed when an out-of-state prisoner needs to be transported in order to testify as a victim or witness in a San Bernardino County court room.

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*Extraditions*

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**335.4 EXTRADITION**

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**335.5 POST-EXTRADITION**

- (a) As soon as practical, and in compliance with existing policies, a report shall be submitted which documents the events of the extradition.
- (b) Within 48 hours of completing the extradition process, all extradition and expenditure documentation required by the Sheriff's Department and the District Attorney's Office shall be completed and submitted via the chain of command for processing.

## Office Alarms

### 336.1 PURPOSE AND SCOPE

The District Attorney's Office has equipped certain Office locations with alarm systems. The purpose of these alarms is to protect against intrusion and to ensure the safety and security of the records and equipment maintained within these facilities. Employees must be careful so as to avoid unnecessarily activating an alarm, which would necessitate police response. False or accidental alarms may endanger the responding officers and the employees present at the location.

### 336.2 ALARM MONITORING HOURS

These alarm systems are designed to be armed and disarmed as office needs dictate, and are subject to change at the discretion of the Chief Investigator or designee.

### 336.3 ISSUING ALARM CODES AND PASSWORDS

A Chief Deputy DA or a Supervising Deputy DA, in conjunction with the Commander overseeing safety and security, shall determine which employees in an alarmed facility require weekend or after-hours access to the facility. Only those employees deemed to have a need for access during non-business hours shall be supplied with an alarm access code and password. Investigators shall be issued alarm codes and passwords for the facility they are assigned to. Keys may also need to be issued to facilitate access to the structure and for inspection of the premises after an alarm has been reported.

### 336.4 ARMING AND DISARMING AN ALARM SYSTEM

- (a) All employees working at a facility which has an alarm system installed should ensure, whenever possible, that they vacate the building prior to the time the alarm system activates.
- (b) Employees who have not been issued an access code and password should not access an alarmed facility after-hours or during a weekend.
- (c) If an employee enters an alarmed facility during a weekend or after-hours, the employee shall enter the appropriate alarm code into the alarm keypad in order to deactivate the alarm. The employee will know the alarm system is armed upon entry, as the keypad will emit a loud beeping noise until the alarm code is entered and the alarm is deactivated. The employee has 30 seconds to deactivate the alarm.
- (d) When ready to exit the building during a weekend or after-hours, the employee shall enter the code into the keypad to set the alarm. After entering the code, the employee has 30 seconds to exit the facility and close the door before the alarm activates.

## *Office Alarms*

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### **336.5 ACCIDENTAL ALARM ACTIVATION**

If an employee accidentally activates a false alarm, he/she should call the phone number of the listed investigator and advise him/her of the situation. The employee should also notify his/her immediate supervisor of the activation.

### **336.6 ALARM RESPONSES**

- (a) In the event an alarm is activated, the alarm company will contact law enforcement agency having jurisdiction and have a police officer dispatched to the location.
- (b) The alarm company will place a second call regarding the alarm activation to the employee listed as being responsible for facility security. The listed employee will offer to have an investigator respond to the location of the alarm should the police require assistance.
- (c) If the responding officer determines a burglary or other crime has occurred at the location, the officer will have Dispatch contact the alarm company. The alarm company will then notify personnel who are on the alarm company notification list. The investigator contacted will respond to the location to verify if a burglary has occurred. The investigator may enter the building after responding officers have conducted an appropriate search for possible suspects.
- (d) If the officer inspecting the location where the alarm was activated determines no entry was made or attempted, then an investigator is not required to respond.

## Investigation and Prosecution

### 337.1 PURPOSE AND SCOPE

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

### 337.2 POLICY

It is the policy of the San Bernardino County District Attorney's Bureau of Investigation to investigate crimes thoroughly, with due diligence and in a timely manner. Investigative work will be evaluated and submitted to a prosecutor for review when appropriate.

### 337.3 INITIAL INVESTIGATION

#### 337.3.1 INVESTIGATOR RESPONSIBILITIES

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

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

Reports and documentation shall be completed within 10 working days unless approval to delay completion has been obtained by the appropriate supervisor. Refer to the Report Preparation policy.



## *Investigation and Prosecution*

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### **337.4 CUSTODIAL INTERROGATION REQUIREMENTS**

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

#### **337.4.1 AUDIO/VIDEO RECORDINGS**

Any custodial interrogation of an individual should be recorded entirely, using the appropriate audio/video equipment. 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 investigator's 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 be obtained when applicable.

A copy of the recording of each interview and interrogation shall be booked as evidence. Exceptions shall be approved by a supervisor and a Commander.

#### **337.4.2 INTERROGATION AFTER CRIMINAL CHARGES ARE FILED**

If an investigator wants to interrogate a suspect after criminal charges have been filed against that individual for the same incident, *whether the person is in custody or not*, the investigator shall advise the person of his/her *Miranda* rights before doing so (preferably by reading from a Bureau of Investigation-issued *Miranda* Advisement card). In addition to confirming the person understands his/her *Miranda* rights, the investigator shall obtain an express waiver of rights from the person before proceeding with the interrogation.

### **337.5 DISCONTINUATION OF INVESTIGATIONS**

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

- (a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.
- (b) The 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.

## *Investigation and Prosecution*

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- (c) 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.
- (d) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted or requested.
- (e) Investigation has proven that a crime was not committed.

### **337.6 COMPUTERS AND DIGITAL EVIDENCE**

The collection, preservation, transportation and storage of computers, cell phones and other digital devices may require specialized handling to preserve the value of the related evidence. If it is anticipated that computers or similar equipment will be seized, investigators should request, ahead of time, that computer forensic examiners from the FBI's regional computer lab 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.

### **337.7 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES**

Use of social media and any other internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties. Information gathered via the internet should only be accessed by employees while on-duty and for purposes related to the mission of this Bureau of Investigation. If an employee encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the employee should note the dates, times and locations of the information and report the discovery to his/her supervisor as soon as practicable. The employee, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using Office equipment. Information obtained via the internet should not be archived or stored in any manner other than utilized by the Bureau of Investigation (see the Records Maintenance and Release policy).

#### **337.7.1 ACCESS RESTRICTIONS**

Information that can be accessed from any Office 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 a Commander 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.

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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.

#### **337.7.2 INTERCEPTING ELECTRONIC COMMUNICATION**

Intercepting social media communications in real time may be subject to federal and state wiretap laws. Investigators shall comply with the California Electronic Communications Privacy Act (CalECPA). Investigators should also maintain valid California DOJ wiretap certification.

#### **337.8 CRIMINAL COMPLAINT FILING**

An investigator who submits a case to a deputy district attorney for the issuance of a criminal complaint shall be governed by the same rules as any law enforcement agency seeking a complaint. Cases are generally filed by the division of the District Attorney's Office that has jurisdiction over the area where the crime occurred. With vertical prosecution cases, the case may be filed in the jurisdiction determined by the deputy district attorney filing the case.

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## Eyewitness Identification

### 339.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when investigators employ eyewitness identification techniques (Penal Code § 859.7).

#### 339.1.1 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.

### 339.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

### 339.3 INTERPRETIVE SERVICES

Investigators 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 investigator 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.

### 339.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The process should include appropriate forms or reports that provide:

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and signature of the witness.
- (c) The name of the person administering the identification procedure.

## *Eyewitness Identification*

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- (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 suspect.
- (f) An instruction to the witness that the suspect 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 suspect 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.

### **339.5 EYEWITNESS IDENTIFICATION**

Investigators 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.

Investigators should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Whenever feasible, the eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures (Penal Code § 859.7).

### **339.6 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

## *Eyewitness Identification*

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used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the investigator should observe the following guidelines:

- (a) Obtain a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:
  - 1. The length of time the witness observed the suspect.
  - 2. The distance between the witness and the suspect.
  - 3. Whether the witness could view the suspect's face.
  - 4. The quality of the lighting when the suspect was observed by the witness.
  - 5. Whether there were distracting noises or activity during the observation.
  - 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
  - 7. The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
- (d) When feasible, investigators should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
- (e) The person who is the subject of the show-up should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
- (g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

### **339.7 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.

#### **339.7.1 DOCUMENTATION RELATED TO RECORDINGS**

The handling investigator shall document the reason that a video recording or any other recording of an identification was not obtained (Penal Code § 859.7).

## *Eyewitness Identification*

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### 339.7.2 DOCUMENTATION RELATED TO BLIND ADMINISTRATION

If a presentation of a lineup is not conducted using blind administration, the handling investigator shall document the reason (Penal Code § 859.7).

### **339.8 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS**

When practical, the investigator 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 investigator presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness (Penal Code § 859.7). Techniques to achieve this include randomly numbering photographs, shuffling folders, or using a computer program to order the persons in the lineup.

Individuals in the lineup should reasonably match the description of the suspect 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.

The investigator 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 investigator should contact the appropriate prosecuting attorney before proceeding.

#### 339.8.1 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. Employees 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).

## Brady Material Disclosure

### 340.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

#### 340.1.1 DEFINITIONS

Definitions related to this policy include:

**Brady information - Information known or possessed by the San Bernardino County District Attorney's Bureau of Investigation that is both potentially exculpatory and material to the defense of a criminal defendant.**

### 340.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the San Bernardino County District Attorney's Bureau of Investigation will assist the prosecution by complying with its obligation to disclose information that is both potentially exculpatory and material to the defense. The Bureau of Investigation will identify and disclose to the prosecuting attorney potentially exculpatory information, as provided in this policy. The prosecution team consists of employees of the District Attorney's Office, employees of the investigating law enforcement agencies, agencies closely tied to the prosecution and any assisting agencies or persons.

### 340.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Investigators must include in their investigative reports adequate investigative information and reference to all known evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an investigator learns of potentially incriminating or exculpatory information any time after submission of a case, the investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and submitted to the prosecuting attorney.

If information is believed to be privileged or confidential (e.g., confidential informant, attorney-client information, attorney work product), the investigator should discuss the matter with a supervisor and the prosecuting attorney to determine the appropriate manner in which to proceed.

### 340.4 DISCLOSURE OF PERSONNEL INFORMATION

Whenever it is determined that *Brady* information is located in the personnel file of an employee of the Bureau of Investigation 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

## *Brady Material Disclosure*

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notified of the potential presence of *Brady* information in the investigator's personnel file.

- (b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in camera review by the court.
- (c) Any employee who is the subject of such a motion shall be notified in writing that a motion has been filed, and shall be given opportunity to respond to the motion.
- (d) The Assistant Chief Investigator or designee shall accompany all relevant files during any in camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.
- (e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
  1. Prior to the release of any information pursuant to this process, the Assistant Chief Investigator or designee shall 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.

### **340.5 DISCLOSURE OF IMPEACHMENT EVIDENCE**

Case law dictates that evidence impeaching a prosecution witness's credibility is part of the potentially exculpatory evidence the prosecution has an affirmative duty to disclose. Examples of this type of evidence are: Contrary or conflicting statements, false reports, inaccurate statements or reports, criminal convictions and pending criminal charges (both felonies and misdemeanors), reputation for untruthfulness, drug and alcohol abuse, bias toward the defendant, gang membership, probation or parole status, evidence contradicting the witness statements or reports and misconduct involving moral turpitude. Moral turpitude is defined as a general readiness to do evil. Conduct involving deceit, breach of trust, and threats of violence are examples of conduct that constitutes moral turpitude, but are not exhaustive.

### **340.6 INVESTIGATING BRADY ISSUES**

If the Bureau of Investigation receives information from any source that an employee 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.

### **340.7 DUTY TO BE HONEST**

It is the duty of every employee of the Bureau of Investigation to maintain a high level of credibility and avoid any and all conduct that would materially tend to discredit them in the exercise of their duties. This must be done both in their professional and personal lives to the extent there is a nexus between their personal lives and their professional lives. If an employee (either by personal actions or the actions of another) is in a situation where there is evidence that may tend to impeach



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his/her credibility as a witness, it is the duty of the employee to notify the Chief Investigator, via the chain of command, as soon as is practical.

Disclosure of "Brady" conduct is mandatory even though such disclosure can damage the reputation of the affected employee, the Bureau of Investigation and the District Attorney's Office.

Bureau of Investigation employees should receive periodic training on the requirements of this policy.

## Warrant Service

### 341.1 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by investigators. 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.

### 341.2 POLICY

It is the policy of the San Bernardino County District Attorney's Bureau of Investigation to balance the safety needs of the public, the safety of investigators, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants. All search and arrest warrants served by investigators shall be executed in a manner that complies with all applicable state laws.

### 341.3 SEARCH WARRANTS

An investigator shall inform his/her supervisor before preparing a search warrant application. The investigator will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. The investigator should submit the affidavit and search warrant to the appropriate supervisor for review prior to review by a judge.

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### 341.4.1 STEAGALD WARRANTS

A Steagald Warrant (Steagald v. United States (1981) 451 U.S.204), enables investigators to use a simplified search warrant form for the specific purpose of searching third party locations for persons named on an arrest warrant. A Steagald Warrant should be utilized whenever it is advantageous to the case and would reduce the time it takes to locate and arrest wanted persons.

In the event a Steagald Warrant is desired, it shall be the responsibility of the investigator to complete the modified search warrant form and affidavit necessary to obtain the warrant.

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### **341.5 WARRANT PREPARATION**

An investigator who prepares a warrant should ensure the documentation in support of the warrant contains (as applicable):

- (a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime warrant execution.
- (b) A clear explanation of the affiant's training, experience and relevant education.
- (c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
- (d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
- (e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
- (f) A specific description of the location to be searched, including photographs of the location, if reasonably available.
- (g) A sufficient description of the items to be seized.
- (h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Material Disclosure Policy).

### **341.6 PRIOR TO WARRANT SERVICE**

Prior to warrant service, the lead investigator shall ensure:

- (a) All warrant service locations are checked through the Western States Information Network (WSIN) / LA CLEAR. The inquiry shall be noted in the Operations Plan.
- (b) All notifications are made according to policy regarding Inter-Agency Notifications.
- (c) A Supervising Investigator shall be present during the tactical service of a search warrant. A Supervising Investigator need not be present when a search warrant is being dropped off for the eventual delivery of records or other evidence. Any exceptions to this rule must be approved by the Assistant Chief Investigator.
- (d) Occasionally, it may be necessary to obtain a search warrant after business hours. The current protocol established by the court system shall be followed.

#### **341.6.1 BRIEFING FOR THE SEARCH**

- (a) All participating employees and support staff should be present and attentive during the briefing.

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- (b) A sketch or photographs of the location to be searched will be displayed for all assisting personnel.
- (c) Assisting personnel will be briefed on the items to be seized pursuant to the search warrant.
- (d) If it is known that a dangerous animal will be encountered, animal control may be notified prior to service of the search warrant.
- (e) The law enforcement agency having jurisdiction where the search warrant will be served shall be advised of the briefing and invited to attend, if feasible.

#### **341.6.2 EQUIPMENT**

The lead investigator or designee will be responsible for ensuring the equipment required to effectively enter the location, conduct the search and collect evidence is present and serviceable.

All investigators participating in the service of the search warrant shall wear appropriate and approved attire:

- (a) Protective vest displaying the cloth badge and the words "District Attorney Investigator" and "Police" on the front and back.
- (b) A protective vest may be worn in conjunction with the Office approved lightweight jacket.
- (c) All issued safety equipment, such as: weapon(s), flashlight, handcuffs, H.T. radio, O.C. spray, and any other authorized equipment the situation may dictate.
- (d) Support staff shall also wear Office approved attire.

Each investigator participating in the warrant service is responsible for ensuring each piece of their safety equipment is operational and in their personal possession.

#### **341.7 OPERATIONS PLAN**

The lead investigator shall prepare an Operations Plan prior to undertaking:

- (a) Undercover operations.
- (b) Surveillances.
- (c) Search warrant operations.
- (d) Dignitary security details.
- (e) Witness protection operations.
- (f) Other matters involving the potential for violence, public safety concerns, or office security operations.

The investigator and involved Supervising Investigator are responsible for planning the operation. An Operations Plan is required unless prior approval has been obtained from a Supervising Investigator or a Commander.

The Operations Plan should include:

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- (a) Location and description of premises to be searched.
- (b) An explanation of objectives sought or investigative goals to be accomplished during the operation.
- (c) A list of all agencies involved.
- (d) Command post information.
- (e) Communications information (radio frequencies, cellular phone numbers, etc.).
- (f) Briefing time and place.
- (g) Suspect information, to include vehicle descriptions.
- (h) Other subjects, such as family members, children or associates who may be present at the location to be searched.
- (i) Individual investigator assignments, support staff assignments and team assignments.
- (j) Officer safety concerns and emergency hospital information.
- (k) Criminal history information (CLETS, CNI, etc.), premise history, WSIN and gun registration information on the suspect(s).

The completed Operations Plan shall be submitted to the appropriate Supervising Investigator for review at least one day prior to the planned operation. The Supervising Investigator will then submit the Operations Plan to the appropriate Commander or designee for review at least one day prior to the planned operation.

In the event of an immediate need to conduct an operation that would normally require an Operations Plan, an investigator may determine whether or not to proceed with an operation; taking into consideration concerns for public safety, officer safety and enforcement of the law. The investigator shall notify the involved Supervising Investigator as soon as is practical about the operation. The investigator shall also make the appropriate notifications according to policy regarding Inter-Agency Notifications.

### **341.7.1 FINANCIAL INSTITUTIONS OR RELIABLE BUSINESSES**

A financial institution or reliable business may be defined as major banks, major mortgage companies, real estate companies, government agencies and other businesses that are not considered suspect in a case.

An Operations Plan and briefing are not required when an investigator is serving a search warrant for financial records, or the search warrant will be given to the business to prepare the records for seizure at a later date. These types of search warrants are to be handled in a "low key" professional manner.

### **341.7.2 SUSPECT OR HOSTILE BUSINESSES**

A search warrant for a suspect or hostile business will be handled in the same manner and with the same requirements as searches of other suspect premises. Businesses that are open to the public will be closed during the search for crime scene control and evidence collection issues.

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After all employees are identified, the owner or manager may send the employees home if they are not needed by the lead investigator.

### **341.8 WARRANT SERVICE**

The investigator responsible for directing the service should ensure the following (as applicable):

- (a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.
- (b) Planned warrant service shall be audio-recorded, and video-recorded when practicable and reasonable to do so. Exceptions shall be pre-approved by a supervisor.
- (c) Evidence is handled and collected only by those employees who are designated to do so. All other employees involved in the service of the warrant should alert one of the designated employees to the presence of potential evidence and not touch or disturb the items.
- (d) Reasonable efforts are made during the search to maintain or restore the condition of the location.
- (e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.
- (f) Reasonable care provisions are made for children and dependent adults.
- (g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
- (h) A copy of the search warrant is left at the location; preferably by giving it to a person having dominion and control of the location, when possible.
- (i) The condition of the property is documented with video recording or photographs after the search.
- (j) The presence of a supervisor.

#### **341.8.1 DOCUMENTATION OF PROPERTY DAMAGE**

Should damage to personal property occur as a result of forcible entry or by accident, a description of the damage and the circumstances under which it occurred will be documented in the lead investigator's report. The on-scene Supervising Investigator and the lead investigator will be advised and photographs will be taken of the damage. A responsible party for the property will be advised of the damage and of the procedure for filing a claim with the County of San Bernardino, when practical. A copy of the investigative report and search warrant will be submitted to the involved Supervising Investigator, who will then prepare a memo to a Commander for review.

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### **341.8.2 SECURING THE LOCATION**

The on-scene Supervising Investigator shall ensure that the premises are adequately secured prior to leaving. If the premises cannot be secured, the owner shall be advised, or a reasonable attempt will be made to contact a responsible party prior to departing.

### **341.9 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 (refer to 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.

### **341.10 SEARCHES OF PERSONS**

Persons arrested for offenses that necessitate formal booking in a custodial facility shall be thoroughly searched for concealed weapons, contraband and other items of evidence.

Individuals authorized to be searched pursuant to the search warrant shall be searched allowing for officer safety and the seizure of evidence.

If minor children are present when their parents are arrested, they may be released to the custody of a responsible adult with parental approval. Should a responsible adult be unavailable, the children will be taken into protective custody pursuant to W.I.C. 300. Under no circumstances will a minor child be left unattended or released to the custody of an adult who cannot care for the safety and well-being of the minor.

The San Bernardino County District Attorney's Office has enacted an Exposure Control Plan. The Exposure Control Plan has been incorporated under the Bloodborne Pathogens Exposure Control Plan policy. All investigators shall be familiar with the Exposure Control Plan as it relates to the protection and safety of Office personnel who may be called upon to participate in the service of search warrants and arrest warrants. The Exposure Control Plan is intended to minimize the possibility of exposure to airborne and bloodborne pathogens, as well as communicable diseases such as Hepatitis, Tuberculosis and HIV.

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### **341.10.1 PROBATION SEARCHES AT A RESIDENCE**

The guidelines pertaining to search warrants will also govern searches conducted at a residence pursuant to an individual's probation search terms. The investigator shall obtain from the Probation Department or court a copy of the individual's search terms prior to conducting any search pursuant to those terms. The individual's probation officer shall be notified and advised of the circumstances. The probation officer may authorize invoking the probationer's terms and conditions and authorize investigator to search.

### **341.10.2 PAROLE SEARCHES AT A RESIDENCE**

The guidelines pertaining to search warrants will also govern searches conducted pursuant to an individual's parole search terms. The investigator should contact the Department of Corrections and Rehabilitation Parole Division, as well as San Bernardino County Probation, when practicable to confirm the current parole (including PRCS) status of the individual and inquire as to any additional terms and conditions. The individual's parole officer should be notified and advised of the circumstances.

### **341.11 ACTIONS AFTER WARRANT SERVICE**

The Supervising 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.

The involved Supervising Investigator should conduct a debriefing with involved personnel. The debrief provides an opportunity to discuss lessons learned and encourage continuous improvement in organizational and individual performance.

### **341.12 SEARCH WARRANTS AUTHORIZING H.I.V. TESTING OF CRIMINAL DEFENDANTS**

State law permits the court to issue a search warrant upon the request of the victim of any crime where blood, semen, or other body fluid identified by the State Department of Health Services as capable of transmitting H.I.V. is believed to have been transferred from the accused to the victim. The search warrant is then served upon the defendant, the blood is drawn by medical staff and is then submitted for testing. The results are returned to the H.I.V. investigative technician for notification to the victim.

The Bureau of Investigation will facilitate the efforts of the H.I.V. Search Warrant investigative technician in securing and serving search warrants for H.I.V. testing of defendants pursuant to P.C. 1524.1.

The investigative technician performs the following:

- (a) Contacts the victim.
- (b) Prepares the search warrant and affidavit.
- (c) Secures a judge's signature on the search warrant.
- (d) Arranges for the service of the search warrant.



## *Warrant Service*

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- (e) If the defendant is out-of-custody, the defendant is ordered to appear at San Bernardino County Public Health or other secure location (such as a police/ sheriff's department using LEMS (Law Enforcement Medical Services - a vendor providing mobile phlebotomists) for the blood draw.
- (f) If possible, the investigative technician will attempt to contact the defendant's attorney to arrange a date and time for the defendant to report to Public Health or other designated facility/location.
- (g) The investigative technician will arrange to have an investigator or other law enforcement officer present at Public Health or other designated facility/location during the service of a search warrant.
- (h) If the defendant is in custody, the investigative technician will make advance arrangements with the jail nurse to draw the blood, and to have jail staff present during the service of the search warrant.
- (i) A copy of the search warrant will be given to the defendant and to the jail staff for their records.
- (j) The investigative technician shall file a return to the search warrant with the court.
- (k) The investigative technician will obtain the results of the H.I.V. test from Public Health and contact the victim with the results.

### **341.13 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS**

The involved Supervising Investigator will ensure cooperative efforts with other agencies and will work to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement

Any outside agency requesting assistance in the service of a warrant within the County should be referred to the Assistant Chief Investigator. The Assistant Chief Investigator or designee should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The Assistant Chief Investigator or designee should ensure that investigators of the San Bernardino County District Attorney's Bureau of Investigation are utilized appropriately. Any concerns regarding the requested use of investigators should be brought to the attention of the Chief Investigator or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the Assistant Chief Investigator is unavailable, a Commander should assume this role.

If investigators intend to serve a warrant outside of the County, the appropriate Supervising Investigator shall advise the appropriate Commander, and should provide reasonable advance notice to the applicable agency, request assistance as needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

## *Warrant Service*

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Investigators will remain subject to the policies of the San Bernardino County District Attorney's Bureau of Investigation when assisting outside agencies or serving a warrant outside of the County.

### **341.14 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 News Media Relations Policy.

### **341.15 TRAINING**

The Commander over training should ensure investigators receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

## Opening Initial and Special Investigations

### 342.1 PURPOSE AND SCOPE

The purpose of this policy is to maintain and ensure the trust, integrity, confidence and cooperation of the public, all law enforcement agencies and local government, as well as to provide operational guidelines for opening initial and special investigations.

### 342.2 POLICY

The District Attorney has authority by constitutional, statute, and case law to investigate any crime occurring within his/her jurisdiction. Generally, that power to investigate will be limited to instances as outlined in this policy with the District Attorney remaining as the final authority.

An Assistant District Attorney or designee, or the Chief Investigator or designee, are authorized to open initial, special, or joint investigations within the guidelines of this policy.

Any investigation involving another law enforcement agency, county department, municipal agency or branch of local government shall only be conducted with the knowledge, cooperation, request and express consent of the chief, department head, administrator or designee of the agency concerned. Exceptions can be made on a case-by-case basis when authorized by the Chief Investigator or a designee. Examples: 1) Instances of criminal corruption involving the administration of that entity or agency if their inclusion or notification would jeopardize the investigation, or 2) When assisting the grand jury, which requires that all investigations remain confidential.

With the exception of investigations meeting the above criteria, the District Attorney does not conduct covert investigations of other agencies.

### 342.3 INVESTIGATIVE CONDUCT

Conduct of investigative staff at the scene of an investigation, while assisting another agency or during any independent investigation shall be of the highest standards of professional courtesy, cooperation and support.

Investigative staff shall not interfere with, investigate or make inquiries into another agency's investigation under any circumstances unless by official assignment or when asked to assist the agency by a representative authorized to make such a request (case agent, supervisor, department head or their designee).

## *Opening Initial and Special Investigations*

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### **342.4 INITIAL INVESTIGATIONS**

- (a) The primary focus of the Bureau of Investigation is trial preparation and investigation of cases already submitted to the District Attorney's Office for filing.
- (b) Generally, the Bureau of Investigation does not conduct initial investigations of routine criminal matters normally handled by local law enforcement agencies, except those handled by the non-trial preparation/specialty units. On rare occasion, there may be a need to initiate a new criminal investigation that would normally be handled by a local law enforcement agency if the investigator witnesses a crime or comes upon evidence of a crime. When this occurs, the investigator should contact the appropriate Supervising Investigator and determine the best course of action.
- (c) The Chief Investigator may authorize initial investigations when other agencies or departments are unable to investigate due to a conflict of interest, lack of expertise in a specialized field, shortage of personnel, shortage of equipment, when the best interests of justice and the District Attorney's Office would be served, or at the request of the District Attorney or a designee.
- (d) Initial investigations may be undertaken by investigators assigned to the appropriate specialized unit (Auto Insurance Fraud, Real Estate Fraud, multi-agency task forces, etc.) without having to obtain authorization as mentioned above. Investigations conducted in accordance with this section shall comply with all other policies established by the Bureau of Investigation.
- (e) Nothing in this policy prevents an investigator from exercising proper judgment in order to assist another agency when exigent or emergency circumstances exist. When possible, attempts should be made to secure authorization from a supervisor prior to becoming involved.

### **342.5 REQUEST FOR INVESTIGATION**

- (a) Formal requests for investigative assistance in criminal matters involving another agency shall come from the agency chief, department head or a designee in writing, and be directed to the District Attorney or Chief Investigator as expeditiously as possible. Exigent or emergency circumstances will only require a verbal request by the agency head or a designee, with the expectation that a written request will follow.
- (b) All requests, written or verbal, are subject to approval by the District Attorney, a designee or the Chief Investigator.

### **342.6 SPECIAL INVESTIGATIONS**

- (a) Special investigations shall not be initiated or conducted without the express approval of the District Attorney, a designee, or the Chief Investigator. The District Attorney may, at his discretion, investigate any matters in any jurisdiction within the County to which criminal or civil penalties apply. His authority in this regard is unlimited and discretionary.
- (b) When an initial investigation, by the Bureau of Investigation, in another agency's jurisdiction is deemed necessary by the District Attorney, the agency shall be informed

## *Opening Initial and Special Investigations*

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and afforded the opportunity to participate in or handle the investigation, unless there is an exception authorized by this policy.

- (c) In matters where an agency relinquishes, refuses, defers or acquiesces responsibility, the District Attorney may opt to conduct initial investigations.

### **342.7 JOINT INVESTIGATIONS - RESPONSIBILITY**

- (a) Generally, in cases where investigative assistance is provided by the District Attorney's Office to another agency or entity, investigations shall be conducted jointly with the requesting agency through or with a designated representative of that agency.
- (b) The requesting agency will retain responsibility and authority over the investigation unless the agency consents to the District Attorney taking responsibility or an exception listed above exists.
- (c) The final authority for determining criminal involvement and prosecution belongs to the District Attorney or a designee.
- (d) Units engaged in conducting primary investigations (such as Insurance Fraud, Real Estate Fraud, etc.) may assume the role of the lead agency in a joint investigation as the situation dictates. Any joint investigation undertaken shall immediately be reported to the appropriate Commander, via the chain of command.
- (e) No one may institute criminal proceedings without the concurrence and approval of the District Attorney. (Government Code § 26500 and 26501).

### **342.8 APPLICATIONS FOR CERTIFICATES OF REHABILITATION AND PARDON**

- (a) As set forth in Penal Code § 4852.01, 4852.12 and 4852.14, the District Attorney is required to make an investigation and file certain reports and recommendations regarding applicants. A Supervising Investigator will assign an investigator/ Investigative Technician to investigate and make all reports regarding the applicant.
- (b) Investigators will familiarize themselves with these sections of the Penal Code and may be required to follow a procedure for investigation and report writing.

## Witness Cash Fund

### 343.1 PURPOSE AND SCOPE

The Bureau of Investigation maintains regional witness cash funds for distribution to witnesses in accordance with the California Penal Code and guidelines. This policy provides guidance for proper handling, processing, controlling, and distributing of cash to witnesses. This policy also serves to define areas of responsibility for Supervising Investigators, investigators and Witness Coordinators.

### 343.2 POLICY

It is the policy of the Bureau of Investigation to properly handle and document cash transactions and to maintain accurate records of cash transactions in order to protect the integrity of operations and ensure the public trust.

### 343.3 MAINTENANCE AND ACCESSING FUNDS

The following requirements shall be adhered to:

- (a) All witness cash funds on hand shall be kept in a safe or locked, secured cash box within a location not readily accessible to members of the public.
- (b) Each location where a Witness Cash Fund is maintained shall have a designated employee assigned to manage the fund.
- (c) Only the designated employee assigned to manage the fund and the employee's Supervising Investigator shall have access to the safe containing the witness funds.
- (d) Witnesses may only receive payment from a Witness Cash Fund, not from a general office petty cash fund.
- (e) The Witness Cash Fund shall not be utilized for purposes other than the payment of witness expenses.
- (f) The Witness Coordinator in each office will maintain a ledger of transactions. The location in which the ledger is kept shall be accessible to the Witness Coordinator and Supervising Investigator.

### 343.4 DISTRIBUTING FUNDS

For distribution of funds to witnesses, the Witness Coordinator (or assigned employee in the Morongo office) shall ensure:

- (a) A receipt is generated that includes the name and telephone number of the person receiving the cash, along with the appropriate case number.
- (b) Cash advances for meals for witnesses should be given only when exigent circumstances exist, and then only with the advance approval of a Chief DDA, a Supervising Investigator or a designee. Our policy is to reimburse witnesses for expenses through a claim process, via a check issued by the Bureau of Administration. Cash advances are for feeding a witness who has arrived to testify on a case when

## *Witness Cash Fund*

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the witness has no food or funds with which to purchase a meal or has no funds for transportation.

- (c) The cash advance receipt is signed by the witness receiving the cash, the employee providing the cash and a second Office employee witnessing the distribution of cash.
- (d) A second Bureau of Investigation employee (or if not available, another DA's Office employee) is to be present for the cash payment to the witness, and shall sign the cash advance receipt.
- (e) The original cash advance receipt is given to the witness.
- (f) Entries are made in the ledger of transactions, documenting the date of the transaction, the amount and to whom the cash was distributed.

### **343.5 REPLENISHING FUNDS**

The Witness Coordinator shall:

- (a) Ensure requests for replenishing the cash box are made prior to cash on hand dropping below \$100. In the case of Morongo, replenishment shall be requested prior to cash on hand dropping below \$50.
- (b) Make email notification to the Office's Bureau of Administration and the Witness Coordinator's supervisor when the fund requires replenishment. Send the second copy of the cash advance receipt, along with the most recent copy of the ledger, to the Office's Bureau of Administration so the request for replenishment may be processed.
- (c) Make arrangements to cash the check (which will be made payable to "Petty Cash/Witness Coordinator's Name") as soon as possible (preferably at the bank upon which it is drawn). The Witness Coordinator's supervisor or designee shall accompany the Witness Coordinator when the check is cashed.
- (d) Upon cashing the Witness Cash Fund check, immediately deposit the funds directly into the safe or secured cash box.
- (e) Depositing a petty cash reimbursement check into a personal account or any other account is forbidden.
- (f) Maintain all records in an up-to-date manner.
- (g) Never borrow or utilize the witness cash funds for any other purposes.

### **343.6 AUDITING FUNDS**

- (a) The Witness Coordinator and Supervising Investigator shall review the Witness Cash Fund account at the beginning of each month and perform an audit to ensure the account is being properly managed and is balanced.
- (b) The Witness Coordinator shall add an entry in the ledger with the date the account was audited, the account balance and the name of the Supervising Investigator performing the audit. The Supervising Investigator shall sign the ledger to acknowledge conducting the audit.

## *Witness Cash Fund*

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- (c) In the event of any discrepancies, the Supervising Investigator will first contact the Witness Coordinator (or in the case of Morongo - the designated employee), then other employee witnesses if needed to verify the transactions actually occurred.
- (d) The Supervising Investigator shall notify the appropriate Commander immediately if an unresolved discrepancy is found.

### **343.7 WITNESS TRAVEL ARRANGEMENTS**

Refer to the Procedures for Witness Travel Arrangements.





## Special Investigation Funds

### 344.1 PURPOSE AND SCOPE

Special investigation funds provide cash for covert investigations, for the purpose of purchasing evidence, or to pay for illicit or illegal services in furtherance of an investigation.

### 344.2 USE OF FUNDS

- (a) When District Attorney's Office funds are used by an employee of the Bureau of Investigation as described in this policy, the use of such funds will require the authorization of the Chief Investigator, the Assistant Chief Investigator or a Commander.
- (b) The lead investigator assigned to the case in which special investigation funds are utilized shall request the use of such funds in a memorandum directed to the Chief Investigator. The memorandum shall include the case name, case number, and the date the funds are needed; along with a brief description of the circumstances and intended use of the funds.
- (c) A Commander shall coordinate obtaining the special investigation funds from the Bureau of Administration and ensuring all appropriate documentation is completed. The funds will then be given to the lead investigator and/or supervisor responsible for the investigation.

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- (e) Any funds authorized for use in an investigation shall remain in the possession of the lead investigator or supervisor assigned to the case, unless the possession of the funds by another individual is necessary to further the investigation.
  - (f) If funds are to be possessed or used by an informant or other individual, care should be taken to ensure that the informant or other individual's money does not become commingled with the special investigation funds.
  - (g) In cases where the investigation requires the advance payment of special investigation funds, the authorization of the Chief Investigator, the Assistant Chief Investigator or a Commander is required before such action is taken.
  - (h) When special investigation funds are obtained and are not being utilized, the funds shall be maintained in a locked and secure location. If not used within 48 hours, the funds shall be returned to the Bureau of Administration. If it becomes necessary to maintain funds for a longer period of time, approval from the Chief Investigator or Assistant Chief Investigator is required.
  - (i) The lead investigator and/or supervisor of the case in which special investigation funds have been used or expended are responsible for documenting the use of such funds when the investigation is complete. The balance of any funds not spent, along with a memorandum documenting the amount expended, shall be forwarded to the Chief

## *Special Investigation Funds*

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Investigator or the Assistant Chief Investigator. The balance of the funds shall then be returned to the Bureau of Administration and documented accordingly.

## Cash Handling, Security and Management

### **345.1 PURPOSE AND SCOPE**

This policy provides guidelines to ensure Bureau of Investigation employees handle cash appropriately in the performance of their duties.

This policy does not address cash-handling issues specific to the Property and Evidence, Informants, Special Investigations or Witness Cash Fund policies.

### **345.2 POLICY**

It is the policy of the San Bernardino County District Attorney's Bureau of Investigation to properly handle and document cash transactions and to maintain accurate records of cash transactions in order to protect the integrity of Bureau of Investigation operations and ensure the public trust.

### **345.3 PETTY CASH FUNDS**

The Chief Investigator shall designate a fund manager to be responsible for maintaining and managing each petty cash fund, including CalWRAP funds.

Each petty cash fund requires the creation and maintenance of an accurate and current transaction ledger and the filing of appropriate invoices, receipts, cash transfer forms and/or expense reports by the fund manager.

Employees handling petty cash funds controlled by another agency, as part of their assignment to a task force or other ancillary duty, shall follow that agency's established procedures. If the procedures conflict with those outlined in this policy, the employee shall make the other agency's appropriate supervisor and the employee's Supervising Investigator aware. The Supervising Investigator will then work with the appropriate Commander so the conflict may be properly addressed.

### **345.4 PETTY CASH TRANSACTIONS**

The fund manager shall document all transactions on the ledger and any other appropriate forms. Each person participating in the transaction shall sign or otherwise validate the ledger, attesting to the accuracy of the entry. Transactions should include the filing of an appropriate receipt, invoice or cash transfer form. Transactions that are not documented by a receipt, invoice or cash transfer form require an expense report.

### **345.5 PETTY CASH AUDITS**

Each fund manager shall perform an audit once per month. This audit requires that the fund manager and at least one other employee review the transaction ledger and verify the accuracy of the accounting. The fund manager and the participating employee shall sign or otherwise validate the ledger attesting to the accuracy of all documentation and fund accounting. A discrepancy in the audit requires documentation by those performing the audit and an immediate reporting of the discrepancy to the Chief Investigator.

## *Cash Handling, Security and Management*

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Transference of fund management to another employee shall require a separate petty cash audit and involve another employee.

A separate audit of each petty cash fund should be completed periodically by the Office's Bureau of Administration.

### **345.6 ROUTINE CASH HANDLING**

Witness Coordinators shall discharge their duties related to money in accordance with the Witness Cash Fund policy, which will conform with this policy.

Employees who routinely accept payment for Bureau of Investigation services shall discharge those duties in accordance with the procedures established for those tasks.

### **345.7 OTHER CASH HANDLING**

Employees of the Bureau of Investigation who, within the course of their duties, are in possession of cash that is not their property or that is outside their defined cash-handling responsibilities shall, as soon as practicable, verify the amount, summon another employee to verify their accounting, and process the cash for safekeeping or as evidence or found property, in accordance with the Property and Evidence Policy.

Cash requires immediate notification of a supervisor, special handling, verification and accounting by the supervisor. Each employee involved in this process shall complete an appropriate report or record entry.

## Bias-Based Policing

### 346.1 PURPOSE AND SCOPE

This policy provides guidance to Bureau of Investigation employees that affirms the San Bernardino County District Attorney's Bureau of Investigation's commitment to policing that is fair and objective.

#### 346.1.1 DEFINITIONS

Definitions related to this policy include:

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

### 346.2 POLICY

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

### 346.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an investigator from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

### 346.4 EMPLOYEE RESPONSIBILITIES

Every employee of this Bureau of Investigation 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. Employees should, when reasonable to do so, intervene to prevent any biased-based actions by another employee.

#### 346.4.1 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, investigative report, incident report), the involved investigator should include those facts giving rise to the contact, as applicable.

## *Bias-Based Policing*

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Except for required data-collection forms or methods (which will begin January 1, 2022), nothing in this policy shall require any investigator to document a contact that would not otherwise require reporting.

### **346.5 SUPERVISOR RESPONSIBILITIES**

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors shall discuss any issues with the involved investigator and his/her supervisor in a timely manner.
  - (a) Supervisors shall document these discussions, in the prescribed manner.
- (b) Supervisors should periodically review portable audio/video recordings and any other available resource used to document contact between investigators and the public to ensure compliance with the policy.
  - (a) Supervisors shall 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.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (d) Supervisors shall take prompt and reasonable steps to address any retaliatory action taken against any employee of this Bureau of Investigation who discloses information concerning bias-based policing.

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

The Assistant Chief Investigator 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 Custodian of Records for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Custodian of Records Policy.

### **346.7 ADMINISTRATION**

Each year, the Assistant Chief Investigator should review the efforts of the Bureau of Investigation to provide fair and objective policing and submit an annual report, including public concerns and complaints, to the Chief Investigator.

The annual report should not contain any identifying information about any specific complaint, member of the public or investigators. It should be reviewed by the Chief Investigator to identify any changes in training or operations that should be made to improve service.

Supervisors should review the annual report and discuss the results with those they are assigned to supervise.

## *Bias-Based Policing*

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### **346.8 TRAINING**

Training on fair and objective policing and review of this policy should be conducted as directed by the Commander over training.

- (a) All investigators 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 employees of this Bureau of Investigation are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.
- (c) Each investigator who received initial bias-based policing training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).

## Chapter 4 - Equipment



## **Bureau of Investigation Owned and Personal Property**

### **400.1 PURPOSE AND SCOPE**

Bureau of Investigation employees are expected to properly care for Bureau of Investigation property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or Bureau of Investigation property while performing their assigned duty. Certain procedures for reporting are required depending on the loss and ownership of the item.

### **400.2 CARE OF OFFICE AND COUNTY PROPERTY**

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of Office and County property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of Office and County property may lead to discipline including, but not limited to the cost of repair or replacement.

- (a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any Bureau of Investigation issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable Office or County property should be discontinued as soon as practical and replaced with comparable Office or County property as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, Office and County property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed, unless preapproval to do otherwise has been received from the Chief Investigator or designee.
- (d) Office and County property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event that any Office or County property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

### **400.3 USE OF OFFICE AND COUNTY PROPERTY AND FACILITIES**

General Guidelines:

- (a) Facilities, property and equipment owned by the Office or the County shall not be used for personal benefit, including personal profit or the profit of others unless approved in advance by the Chief Investigator or designee.
- (b) Employees may be subject to reimbursement charges and disciplinary action for damage or loss of any Office or County equipment which was determined to be as a result of negligence.
- (c) Employees shall not mark, alter, or deface Office facilities or any Office equipment, property, or materials.

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## *Bureau of Investigation Owned and Personal Property*

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- (d) The Office issues a badge for investigators and technicians, and employee photo identification cards for official use by all employees. Upon separation from the office, all property of the District Attorney's Office shall be turned in to the Chief Investigator or designee.
- (e) Employees shall not use Office letterhead stationery for personal correspondence.
- (f) Employees shall not use any Office mailing addresses for personal purposes or non-Office business.
- (g) Use of Office issued telephones, facsimiles, or computer equipment shall be in accordance with the Bureau of Investigation's Employee Acknowledgement of Policies - Computer Usage, Database Access & Confidentiality of Information form.
- (h) Use of Office issued cellular phones shall be used in accordance with the Bureau of Investigation's Cell Phone/Computer Agreement.

Use of Office facilities, equipment or property for display of personal, commercial, or charitable merchandise for sale must be preapproved by the Chief Investigator or designee, or specifically authorized as detailed below.

- (a) It is the philosophy of the Bureau of Investigation to keep all work areas free of posters, objects, merchandise and commercially made products that are displayed for sale for personal profit that might interfere with the professional image of Office and/or distract and detract from the professional work environment that the Office seeks to promote for its employees. It is not the intent or desire of the Office to restrict or prohibit the employees from participating in personal business activities for profit except as it applies to the use of County facilities and county time to display, market and sell such products.
- (b) The display of commercially made products, merchandise or handmade items for sale for personal profit shall be restricted to the bulletin board provided at each office. No object measuring more than 24" square shall be displayed or offered for sale except by way of a photograph or other similar two-dimensional representation that can be attached to the bulletin board. The display of such items in any other work area of the Office is expressly prohibited.
- (c) No employee shall buy, sell, market, take orders, make deliveries or otherwise conduct or promote their personal business activities for profit during his/her County working hours.
- (d) Exceptions to the above sections may be made for Office or association sponsored items or events. Exceptions must be preapproved by the Chief Investigator or designee.
- (e) The display of commercially made products, merchandise or other items for sale for charity or the benefit of a charitable organization shall be permitted in other Office work areas as long as such displays do not interfere with the professional image of the Office, and they do not detract from the professional work environment that the Office seeks to promote for its employees.

## *Bureau of Investigation Owned and Personal Property*

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### **400.4 FILING CLAIMS FOR PERSONAL PROPERTY**

Claims for reimbursement for damage or loss of personal property must be made on the proper form. This form is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Commander, 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 will be determined by the Chief Investigator or designee.

The Bureau of Investigation will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

#### **400.4.1 REPORTING REQUIREMENT**

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made. If a case number has been drawn, this information should be included in the narrative. Otherwise, an interoffice memorandum should be submitted by the employee to his/her supervisor.

### **400.5 LENDING EQUIPMENT**

Supervising Investigators will be responsible for the control, maintenance and loaning out of equipment assigned to their unit.

- (a) Supervising Investigators or their designee shall maintain an "Equipment Sign-Out Sheet" for the loaning out of assigned equipment.
- (b) When a request to borrow equipment is received, the Supervising Investigator or designee shall have the borrower complete the Equipment Sign-Out Sheet.
- (c) When the equipment is returned, the Supervising Investigator or designee shall initial the Equipment Sign-Out Sheet documenting the return of the equipment.
- (d) Personnel who borrow equipment from a unit other than their own shall follow the same procedure outlined above.

### **400.6 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.

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- (a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

### 400.6.1 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to real or personal property belonging to the County, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before going off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Commander.

## Personal Communication Devices

### 401.1 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 of Investigation 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.

### 401.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation allows employees to utilize Bureau of Investigation-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Bureau of Investigation, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair employee safety. Additionally, employees are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the employee and the employees PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Employees who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

All PCD usage shall be in compliance with the County's Email Telephone Internet Computer Systems policy.

[See attachment: County Policy Section 09 - Email-Telephone-Internet-Computer Systems.pdf](#)

### 401.3 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to any communication accessed, transmitted, received or reviewed on any PCD issued or funded by the Bureau of Investigation and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities (see the Information Technology Use Policy for additional guidance). This also applies to any PCD provided by another agency (Example - task force assignment).

## *Personal Communication Devices*

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### 401.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

No employee is authorized to be the sole possessor of a Bureau of Investigation-issued PCD. Bureau of Investigation-issued PCDs can be retrieved, reassigned, accessed or used by any employee as directed by a supervisor without notice. Employee use of a Bureau of Investigation-issued PCD and use of a personal PCD at work or for work-related business constitutes specific consent for access for Bureau of Investigation 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).

### **401.4 BUREAU OF INVESTIGATION-ISSUED PCD**

Bureau of Investigation-issued or funded PCDs are provided as a convenience to facilitate on-duty performance. Such devices and the associated telephone number shall remain the sole property of the Bureau of Investigation and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause. Refer to the Bureau of Investigation Owned and Personal Property policy for additional information. Refer to the Cell Phone Agreement in STARnet for additional information.

### **401.5 PERSONALLY OWNED PCD**

Employees may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) The Bureau of Investigation accepts no responsibility for loss of or damage to a personally owned PCD.
- (b) The PCD and any associated services shall be purchased, used and maintained solely at the employee's expense.
- (c) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Employees will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any Bureau of Investigation business-related communication.
  - (a) Employees may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief Investigator.
- (d) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Bureau of Investigation, without the express authorization of the Chief Investigator or the authorized designee.
- (e) Use of a personally owned PCD for work-related business constitutes consent for the Bureau of Investigation to access the PCD to inspect and copy data to meet the needs of the Bureau of Investigation, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, employees will provide the Bureau of Investigation with the telephone number of the device.

## *Personal Communication Devices*

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- (f) All work-related documents, emails, photographs, recordings or other public records created or received on an employee's personally owned PCD should be transferred to the San Bernardino County District Attorney's Bureau of Investigation and deleted from the employee's PCD as soon as reasonably practicable.

Generally, employees are not obligated or required to carry, access, monitor or respond to electronic communications using either a personally owned PCD or a Bureau of Investigation-issued PCD while off-duty. One exception to this is employees who are paid to maintain an on-call status.

### **401.6 USE OF PCD**

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct Bureau of Investigation business:

- (a) All PCDs shall be set to silent or vibrate mode while in a courtroom or in any other setting where appropriate.
- (b) Employees shall endeavor to limit their on-duty use of PCDs for personal reasons to authorized break times, unless an emergency exists.
- (c) Employees are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official Bureau of Investigation business. Disclosure of any such information to any third party through any means, when not for official purposes and without the express authorization of the Chief Investigator or the authorized designee, may result in discipline.
- (d) Employees will not access social networking sites for any purpose that is not official Bureau of Investigation business.
- (e) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any employee having knowledge of such conduct shall promptly notify a supervisor as soon as is practical.

### **401.7 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that employees under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if an employee is observed or reported to be improperly using a PCD.
  - (a) An investigation into improper conduct should be promptly initiated when circumstances warrant.
  - (b) Before conducting any administrative search of an employee's personally owned device, supervisors should consult with the Chief Investigator or the authorized designee.

### *Personal Communication Devices*

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#### **401.8 OFFICIAL USE**

Employees are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, employees should conduct sensitive or private communications on a land-based or other Bureau of Investigation communications network.

#### **401.9 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.

Employees who are operating Bureau of Investigation 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 of Investigation or other emergency services agency. Hands-free use should be restricted to business-related calls or calls of an urgent nature.



## Vehicle Maintenance

### **402.1 PURPOSE AND SCOPE**

Employees are responsible for assisting in maintaining Bureau of Investigation vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

### **402.2 DEFECTIVE VEHICLES**

When a Bureau of Investigation vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be immediately removed from service for repair.

#### **402.2.1 DAMAGE OR POOR PERFORMANCE**

Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

#### **402.2.2 SEVERE USE**

Vehicles operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

#### **402.2.3 REMOVAL OF WEAPONS**

All firearms, weapons and control devices shall be removed from a vehicle and properly secured prior to the vehicle being released for maintenance, service or repair. Refer to the Firearms policy.

### **402.3 WASHING OF VEHICLES**

All Bureau of Investigation vehicles shall be kept clean and, weather conditions permitting, shall be washed as necessary to enhance their appearance.

### **402.4 PROFESSIONAL STAFF USE**

Professional staff shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a Supervising Investigator.

## Vehicle Use

### 403.1 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure Bureau of Investigation vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of County vehicles.

### 403.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation provides vehicles for Office-related business and assigns take-home vehicles to investigators to help them effectively and efficiently handle their job responsibilities. Employees are expected to operate any vehicle provided by the Office, by the County or by another government entity (including rental vehicles) in a safe, responsible and respectful manner so as not to bring unnecessary discredit, ridicule or criticism upon the Office, the District Attorney or the administrative officers.

### 403.3 USE OF VEHICLES

Only County employees are authorized to operate County vehicles, which includes Bureau of Investigation and other Office vehicles.

When an emergency vehicle is operated in an emergency mode by an investigator, the Vehicle Pursuit policy governs such operation.

Employees shall sign an Employee Acknowledgement of Policies form, which refers to this policy for guidance on use of vehicles.

#### 403.3.1 OTHER USE OF VEHICLES

Employees utilizing a County vehicle for any purpose other than their normally assigned duties shall first notify the appropriate supervisor. Employees using vehicles having a Vehicle Log shall complete the Vehicle Log each time they use the vehicle (Example - Investigative Technician vehicles).

Nothing in this policy is designed to prevent employees from exercising their best judgment in using a County vehicle in the event of an emergency or when extenuating circumstances exist.

[See attachment: Shared Vehicle Use Log.pdf](#)

#### 403.3.2 INSPECTIONS

Employees shall be responsible for periodically inspecting the interior and exterior of their assigned vehicle. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

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### *Vehicle Use*

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When transporting any suspect, prisoner or arrestee, the transporting investigator shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

All County vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No employee assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

#### 403.3.3 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. 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). Investigators who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.



#### 403.3.4 KEYS

Employees who are assigned a specific vehicle will be issued keys for that vehicle.

Employees shall not duplicate keys. The loss of a key shall be promptly reported in writing through the employee's chain of command.

#### 403.3.5 AUTHORIZED PASSENGERS

Employees operating County vehicles shall not permit persons other than County personnel or persons required to be transported in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle.

#### 403.3.6 ALCOHOL

Employees who have consumed alcohol are prohibited from operating any County vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, employees may not violate state law regarding vehicle operation while intoxicated.

#### 403.3.7 PARKING

Except when responding to an emergency or when urgent Bureau of Investigation-related business requires otherwise, employees driving County vehicles should obey all parking regulations at all times.

County vehicles being parked at an assigned office should be parked in assigned stalls, when applicable. Employees shall not park privately owned vehicles in stalls or in other areas of the parking lot that are not so designated unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

## *Vehicle Use*

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### 403.3.8 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories from County vehicles without written permission from the appropriate supervisor.

### 403.3.9 PROFESSIONAL STAFF USE

Professional staff using vehicles outfitted with emergency equipment shall ensure that all weapons have been removed before using the vehicle.

## **403.4 INDIVIDUAL EMPLOYEE ASSIGNMENT TO VEHICLES**

County vehicles may be assigned to individual employees at the discretion of the Chief Investigator or designee. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the employee is unable to perform his/her regular assignment.

### 403.4.1 ON-DUTY USE

Vehicle assignments shall be based on the nature of the employee's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other Bureau of Investigation employees at the discretion of the Chief Investigator or the authorized designee.

### 403.4.2 UNSCHEDULED TAKE-HOME USE

Circumstances may arise where County vehicles must be used by professional staff to commute to and from a work assignment. Professional staff may take home County vehicles only with prior approval of a supervisor and shall meet the following criteria:

- (a) The circumstances dictate the need.
- (b) Other options are not available.
- (c) Off-street parking will be available at the employee's residence.
- (d) Vehicles will be locked when not attended.

### 403.4.3 ASSIGNED VEHICLES

Investigators may be assigned take-home vehicles.

Employees are cautioned that under federal and local tax rules, personal use of a County vehicle may create an income tax liability for the employee. Questions regarding tax rules should be directed to the employee's tax adviser.

Criteria for use of take-home vehicles include the following:


- (a) Vehicles should only be used for work-related purposes.
- (b) Vehicles may be used to transport the employee to and from the employee's residence for work-related purposes.

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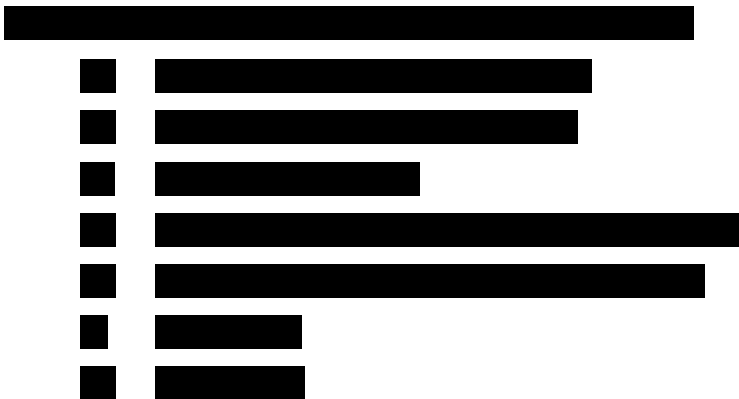
1. Investigators may use the vehicle in a de minimis fashion to accomplish personal tasks that add to the efficiency of their schedule.
  2. Vehicles shall not be used to engage in any inappropriate activity or to store or transport any prohibited items.
- (c) Vehicles will not be used when off-duty except:
- (a) In circumstances when an investigator has been placed on-call by the Chief Investigator or the Assistant Chief Investigator, there is a high probability that the investigator will be called back to duty, and the investigator has prior approval from the Chief Investigator or designee.
  - (b) When the employee is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or travelling to or from a work-related activity or function.
  - (c) When the employee has received permission from the Chief Investigator or the Assistant Chief Investigator.
  - (d) When the vehicle is being used by the Chief Investigator, the Assistant Chief Investigator, the Commanders, or employees who are in on-call administrative positions and have prior approval from the Chief Investigator or designee.
  - (e) When the vehicle is being used by on-call investigators and have prior approval from the Chief Investigator or designee.
- (d) While operating the vehicle, authorized investigators will carry and have accessible their duty firearms and be prepared to perform any function they would be expected to perform while on-duty.
- (e) 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. 
  3. All Bureau of Investigation identification, portable radios and equipment should be secured.
- (f) Vehicles should be parked off-street at the employee's residence during off-hours unless prior arrangements have been made with the Chief Investigator or the authorized designee.
1. The primary purpose for "residential storage" is to ensure the ability to facilitate Office business in an economical and expedient fashion, and to promptly respond to emergency situations that develop.
    - (a) Office business includes but is not limited to responding to airports, hotels, bus terminals, businesses and residences to serve subpoenas, transport witnesses to court and execute search and arrest warrants.

## Vehicle Use

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2. The Office provides a critical law enforcement function in safeguarding the community from criminal offenders. Investigators play an important role in providing security for offices in the event of an emergency, such as a natural disaster, terrorist attack or civil disorder. In the event of such an event, investigators will provide facility security to ensure the safety of professional staff, prevent looting and unauthorized access to Office facilities, and safeguard equipment and confidential information maintained by the Office. Additionally, investigators have Smartphones and radios that allow for communication between facilities. Investigators are responsible for establishing communications and driving documents between facilities to ensure the justice system continues to operate.
3. Investigators are required to respond to dignitary protection events, to safeguard threatened victims and witnesses, to escort incarcerated individuals whose safety may be in jeopardy due to them testifying as a prosecution witness, and to provide security and threat assessment for office staff that have been threatened.
4. Due to the nature of the work being conducted by investigators, Office vehicles vary in style and color, and are equipped to make their law enforcement purpose invisible to the general public, absent operation of emergency equipment on the vehicle. The Office operates multiple facilities countywide and lacks the infrastructure to park Office vehicles in a secure, centralized location that will ensure the safety and security of such vehicles. In addition, residential storage ensures a more rapid response to Office and/or County needs.

(g) The employee is responsible for the care and maintenance of the vehicle.



Each vehicle is equipped with an alarm.

The District Attorney has delegated the decision to assign take-home vehicles to the Chief Investigator or designee. Generally, for purposes of office efficiency, safety and security, only investigators are allowed to take home vehicles. In the event such a decision makes economical sense (saves time and/or money), professional staff may, on a case-by-case basis, take an Office vehicle home overnight to facilitate witness transportation or other assignment as necessary. Approval from a Supervising Investigator is required to allow short-term overnight take-home use of a County vehicle.

## Vehicle Use

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### 403.4.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the County or while off-duty, an investigator shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Investigators may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Investigators driving take-home vehicles shall be armed, appropriately attired and carry their Bureau of Investigation-issued identification. Investigators should also ensure that Bureau of Investigation radio communication capabilities are maintained to the extent feasible.

### 403.4.5 MAINTENANCE

Employees are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Bureau of Investigation, or an outside vendor when necessary. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

- (a) Employees shall make daily inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the employee's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance and car washes shall be performed as necessary at an approved facility.
- (d) The Bureau of Investigation shall be notified of problems with the vehicle and approve any major repairs before they are performed.
- (e) [REDACTED]
- (f) Supervisors shall make periodic inspections of vehicles assigned to employees under their command to ensure the vehicles are being maintained in accordance with this policy.

### 403.4.6 DUTY TO RESPOND

In the event of an emergency, Commanders will contact each Supervising Investigator to provide response instructions. The Supervising Investigators will in turn contact investigators to provide response instructions. Investigators shall respond to their regularly assigned facility unless otherwise directed by a Supervising Investigator. Previous disaster responses to emergency events have shown that there is tremendous value in distributed parking as opposed to centralized parking. The southern California roadway infrastructure is particularly vulnerable to multiple points

## *Vehicle Use*

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of failure that may well result in the inability of employees to respond to their assigned facility. If investigators are unable to respond to their assigned duty station, they shall respond to the nearest District Attorney facility. If unable to respond to an Office facility, an investigator shall report to the closest first responder facility to render assistance. When this is the case, investigators shall contact their supervisor to report their whereabouts, ETA and the facility to which they will report.

Once an emergency situation is stabilized and Office functions are established, the Supervising Investigator (or Incident Commander, if one was established) may release non-essential investigators to assist local law enforcement officials in safeguarding the community. This will be accomplished at the direction of the Chief Investigator or designee.

### **403.5 DAMAGE, ABUSE AND MISUSE**

When any County vehicle is involved in a traffic collision or otherwise incurs damage, the involved employee shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see the Traffic Collision section below).

Damage to any County vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented on the appropriate forms and forwarded to the employee's Commander, via the chain of command.

Employees shall operate County vehicles in a safe manner in accordance with the laws contained in the California Vehicle Code, County and City Ordinances and the general rules of the road. All persons who operate, or are a passenger of a County vehicle, shall wear seat belts.

#### **403.5.1 TRAFFIC COLLISIONS**

In the event of a traffic collision while driving a County vehicle, a County or Office rented vehicle, or a vehicle provided by another government entity:

- (a) Involved employees should first summon aid for any injured parties.
- (b) Employees will, as soon as is practical while at the scene of the traffic collision, notify their supervisor or, if unable to reach their supervisor, any supervisor of the Bureau of Investigation.
- (c) Employees will ask the police agency having jurisdiction to respond, complete a traffic collision report and take photographs of the scene. Employees should also attempt to take photographs, if feasible.
- (d) Employees shall exchange driver and vehicle information with the other involved party(s).
- (e) Employees shall complete the required San Bernardino County Collision Report (15-5705-000 Rev 1-94).
- (f) When advised that an employee has been involved in a traffic collision, the supervisor shall make appropriate notifications. The supervisor may respond to the scene of a non-injury collision, and shall, if practical, respond to the scene of an injury collision.



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- (g) Upon arriving at the scene, the supervisor shall ensure medical aid is provided to those who are injured, while also making sure that County property is being appropriately cared for.
- (h) If any occupants associated with the Office were injured, injury reports must be completed by each injured employee and/or on behalf of an injured occupant who is not an employee. Such reports will be completed in compliance with existing County policy.

### **403.6 TOLL ROAD USAGE**

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all employees operating County vehicles on a toll road shall adhere to the following:

- (a) Employees planning to operate a County vehicle on a toll road should utilize the appropriate toll way transponder, which may be obtained at County Motor Pool. Employees may submit a request for reimbursement from the County for any toll fees personally incurred in the course of official business.
- (b) Investigators passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Commander within five working days explaining the circumstances.

### **403.6 ATTIRE AND APPEARANCE**

When operating any County vehicle during what would normally be off-duty hours, employees may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Bureau of Investigation.

## Use of Police Radios

### 404.1 PURPOSE AND SCOPE

This policy instructs Bureau of Investigation employees regarding when and in what manner to utilize their police radios.

### 404.2 POLICY

The Bureau of Investigation is committed to providing a safe working environment for all of its employees. In accordance with that commitment, the Bureau of Investigation contracts with the San Bernardino County Sheriff's Department (SBCSD) for police dispatching services.

### 404.3 GENERAL INFORMATION

- (a) When an employee is working in the field and intends to conduct radio communications, the employee should wait for a break in radio traffic and speak into the radio microphone with the station identifier and his/her call sign (i.e. "Ninety-four Adam Seventy-two, 10-8"). This notifies the dispatcher that the employee is in the field and they will use information previously provided to them by the Bureau of Investigation to log the employee's vehicle and radio information into the dispatch computer.
- (b) Employees need only to provide the dispatcher with their vehicle number or radio number if they are using a vehicle or radio not normally assigned to them.
- (c) The goal of this system is to provide for employee safety. Investigative technicians should utilize the radio to notify the dispatcher of all process services. Investigators are encouraged to notify the dispatcher when they are conducting business in areas where safety may become an issue. Investigators are expected to notify dispatch of search warrant service and should do so for arrest warrant service.
- (d) Employees shall notify the dispatcher when they go 10-97 and 10-98 from locations (see Radio Codes section below). The dispatcher will conduct safety checks on employees if they are out on a call without contact for an extended period. When an employee is finished for the day (and has logged onto the radio system by going "10-8"), the employee is required to go "10-7" (End of Watch). Failure to follow this procedure will require a dispatcher, and possibly others, to spend unnecessary time trying to locate the employee.
- (e) Employee safety is of paramount concern. This is why the Bureau of Investigation contracted for this necessary service. If an employee has any questions regarding the use of the radio or the procedures outlined above, the employee should contact a supervisor.

### 404.4 HOURS OF OPERATION

Emergency dispatching services through the SBCSD are available 24 hours a day, 7 days a week. The Office's agreement with SBCSD provides regular dispatching services from 6:00 a.m. to 10:00 p.m., Monday through Thursday, except holidays. Friday dispatching hours are 6:00 a.m. to 6

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## *Use of Police Radios*

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p.m. Dispatching is available for special functions and holidays provided arrangements are made in advance of the event. Such special arrangements must be made through a Commander via the chain of command.

### **404.5 CALL SIGNS**

Radio Call Signs are designated as follows:

- “D.A.” - Administration
- “Sam” - Supervising Investigators
- “David” - Investigators
- “Adam” - Investigative Technicians
- “Edward” - Professional Staff

### **404.6 STATION IDENTIFIER**

The “Station Identifier” for the San Bernardino County District Attorney's Bureau of Investigation is “94” (Ninety-four). This identifies the radio user as a District Attorney's Office employee.

### **404.7 SEARCH WARRANT/ARREST WARRANT SERVICE**

- (a) Employees should notify the dispatcher of the service of a search warrant within the County by telephone at least 30 minutes prior to the warrant service.
- (b) If an employee is planning a special event, such as a warrant sweep, the dispatch center will make arrangements for a separate dispatcher and frequency. Should the employee require this type of service, the employee shall contact his/her supervisor for assistance with assessing the needs of the operation.
- (c) With the exception of low-level record-type search warrants, all search warrant operations conducted in the County of San Bernardino may be monitored by dispatch.
- (d) Prior to the service of the search warrant, the investigator in charge of the search warrant operation or a designee will contact the dispatcher by telephone.
- (e) The lead investigator or designee will contact the local law enforcement agency prior to the search warrant service. The investigator or designee will provide that agency with contact information. The agency will be asked to provide at least one uniformed officer who has the capability of transmitting radio communication on the local channel in the event of an emergency situation during the service of the warrant.

### **404.8 CONTACTING THE DISPATCHER BY TELEPHONE**

Dispatchers prefer that employees communicate with them concerning routine matters via the radio. Should an employee have a reason to communicate with a dispatcher via telephone, the valley dispatch center may be reached by telephone at (909) 356-3970, or the desert dispatch center may be reached by telephone at (760) 956-5001. If the valley dispatcher is busy and cannot answer the telephone, the supervising dispatcher can be reached by calling (909) 356-9652.

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**404.9 RADIO CODES**



## Respirator Protection

### 405.1 PURPOSE AND SCOPE

This policy sets forth minimum standards for those assigned to the Special Prosecutions Unit.

### 405.2 POLICY

Various concentrations of assorted chemical substances are utilized in commercial manufacturing processes. Occasionally, these toxic chemicals are involved in unintentional spills, unlawful dumping or other releases. Potential contact with harmful vapors/gases/particles must be assumed for any entry into the scene of a chemical spill or dump until a factual determination to the contrary is established. Uncontrolled contact may result in personal injury and illness, including cough, headache, chest pain, burns, and eye/throat irritation. Prolonged exposure to these substances, without the proper controls (ventilation and/or respiratory protection), can lead to more serious chronic illness or death. The contents of this policy and any attachments will provide general guidance.

### 405.3 RESPONSIBILITIES

The San Bernardino County Department of Risk Management has been appointed as the Respirator Protection Program (RPP) Administrator, to monitor respirator use and coordinate training. The Commander of Specialized Prosecution is responsible for following the guidance and protocols established by the RPP Administrator. The Supervising Investigator of the Special Prosecutions Unit (SPU) is responsible for ensuring that SPU employee abide by the policies and procedures spelled out in this RPP. Each employee (referred to as Respirator User) who wears a respirator shall conform to all requirements set forth in this RPP and in Title 8, California Code of Regulations (Cal/OSHA Standard), Section 5144. The County of San Bernardino Respirator Protection Program should be referenced for specific guidelines pertaining to the RPP Administrator and Respirator User duties.

### 405.4 RESPIRATOR SELECTION

The County of San Bernardino Respirator Protection Program should be referenced for general guidelines pertaining to respirator selection (see attached). Evaluation of chemical properties and acceptable exposure concentrations has been done in order to select the appropriate respirators for Special Prosecutions Unit use, and is explained in the attachment. Records of airborne contaminant concentration measurements, performed during lab raid investigations, will be collected and analyzed in order to support the protocol outlined in this RPP.

### 405.5 TRAINING

Prior to participating in the entry into a hazardous material environment requiring the utilization of respiratory equipment, investigative personnel must successfully complete the 40-Hour CSTI Hazardous Materials Investigation & Safety Class (or equivalent), receive a copy of this RPP, and become familiar with its contents. In addition, a respiratory fit test and a complete medical

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assessment must be accomplished. Chemical hazards and the procedures for monitoring airborne contaminants, as well as use, care and storage of respiratory equipment, are addressed in complete detail during the required 40-Hour Investigation & Safety Class. The RPP attachment is available to any employee requesting a copy for review or possession, immediately upon request or before the next respirator use.

Successful completion of the 40-hour HAZWOPER (Hazardous Waste Operations and Emergency Response) Training must also occur. Thereafter, the annual 8-hour refresher course must be successfully completed.

### **405.6 SITE ENTRY**

**The following protocols will be followed WITHOUT EXCEPTION.** It is important to also consider the unknown chemical dangers. The consequences of failing to do so can be severe, such as chemical pneumonia, chronic lung diseases, irreversible coma, or even death. Refer to the County's RPP, SELECTION OF RESPIRATOR IN FIREFIGHTING AND/OR IDLH CONDITIONS, and the 40-Hour Investigation & Safety Class instructional materials, for additional guidance.

(a) Level A -- Severe Hazard

1. Fully encapsulated suit, boots, inner gloves, Self-Contained Breathing Apparatus (SCBA) required due to:
  - (a) High concentrations of hazardous vapor/gas/particles identified or suspected; or
  - (b) High potential of splash, immersion, or exposure to harmful vapor/gas/particles; or
  - (c) Confined, poorly ventilated areas, and absence of "Level A" risk cannot be verified.
  - (d) **\*\* IMPORTANT \*\* Special Prosecutions Unit investigators are not allowed in Level A areas!**

(b) Level B - High Hazard

1. TYCHEM Chemical suit, Self-Contained Breathing Apparatus (SCBA), nitrile gloves, Polymax boots required due to:
  - (a) High vapor/gas/particle levels, but lesser degree of skin splash potential than Level A; or
  - (b) Oxygen < (less than) 19.5% or > (greater than) 23.5%, any vapors/gases at or near Immediately Dangerous to Life or Health (IDLH) level; or
  - (c) Harmful vapor/gas/particles are present, but not fully measured and evaluated.
  - (d) **\*\* IMPORTANT \*\* Level B must be assumed, and Personal Protective Equipment (PPE) worn, until lesser risk is confirmed by means of documented facts gathered from reliable sources, investigations,**

## Respirator Protection

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**and physical surveillance.** Once the premises are secured, the following protocol applies:

1. At least 2 persons will enter the site, equipped with SCBA, and will ventilate the area and take air-monitoring samples, until such time as a "Level C" or "D" condition is verified.
2. At least 2 persons donning SCBA and ready to assist with emergency rescue within 60 seconds, will remain outside, out of harms way, and in continuous contact with the interior investigators.
3. Until such time as a Level C or D condition can be verified, the number of investigators to remain outside and donning SCBA gear, will be at least equal to the number of investigators inside the lab.
4. To the extent that it is practical and safe, persons with less experience using SCBA gear will be stationed outside, until their experience and/or comfort level increases.
5. To the extent that it is practical and safe, the "SCBA-Interior" assignment will be rotated, in order to provide the critical "on-the-job" experience with the SCBA gear.

(c) Level C - Moderate Hazard

1. PAPR Respirator, APR, TYVEK/TYCHEM suit with gloves/boots required due to:
  - (a) Splashes or other skin contact will not be absorbed or permanently harm the skin; AND
  - (b) Air contaminants are measured and acceptable for PAPR Respirator or Air Purifying Respirator (APR) use, specifically:
    1. No measured levels above the Short-Term Exposure Limit (STEL), or Permissible Exposure Limit (PEL) if no STEL listed,
    2. Oxygen (O<sub>2</sub>) > 19.5% and < 23.5%.
  - (c) **Note: An APR can only be used when the *concentrations of contaminants are known or reasonably determined*. The only APR authorized is a full-face-piece model. Half-mask respirators that don't offer any eye protection are not allowed.**

(d) Level D - Minimum Hazard

1. Street clothing allowed, safety glasses or goggles recommended due to:
  - (a) Verified no contrary splash potential.
  - (b) Verified no air contaminants measured at or above the OSHA PEL.

**\*Level B and Level C work is performed in conjunction with County Fire HazMat, in accordance with section 707.11.**

## *Respirator Protection*

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**The Hazard Monitoring & PPE Determination form is to be filled out and turned in to the RPP Administrator within 24 hours of each completed operation. This information is very important in assessing acceptability of existing protocol, and will be used to periodically assess PPE & procedural modifications.**

### **405.7 MEDICAL EVALUATION**

Only employees who have been examined and found fit by the Center for Employee Health and Wellness (CEHW), shall be permitted to wear respiratory protective equipment. The respirator user's medical status shall be re-evaluated periodically, at least annually.

Prior to field assignment to include use of respiratory equipment, an OSHA-approved "medical evaluation" will be done. This includes the completion of the Supplemental Respirator Use Form Medical Questionnaire. This questionnaire is to be kept on file with the doctor because it has medical information. The doctor will send a Notice of Medical Evaluation, with remarks, back with the employee for Personnel Department use.

A "baseline" physical examination will be given upon assignment to the Special Prosecutions Unit, or shortly thereafter. Included are hearing and visual testing, a spirometry (pulmonary function) test, CBC with diff., chemistry panel with liver function test, and an EKG and/or treadmill (varies by age/medical history).

Per OSHA requirements, all respirator users will receive Annual Medical Surveillance examinations, as determined by the CEHW and the County Safety Officer. Minimum exam protocol will include hearing and visual testing, a pulmonary function test, EKG, CBC with diff., chemistry panel with liver function, and lead. Upon transfer out of the Division, the respirator user will be given the option of receiving an "exit physical" within 12 months of their leaving the Special Prosecutions Unit. The parameters of the exam will be determined by the CEHW and/or the County Safety Officer.

### **405.8 RESPIRATORY EQUIPMENT**

#### **(a) Air Purifying Respirator (APR)**

1. The APR in use is the Ultra-Twin Dual Cartridge/Full Face Piece air-purifying respirator made by Mine Safety Appliances Company (MSA), using the model GME P-100 Super Cartridge. Guidelines regarding respirator use, face piece seal check, cleaning, storage, and replacement, are provided in the 40-Hour Investigation & Safety Class, the attachment to this policy, and in the manufacturer's literature.

- (a) Note: Cartridges are to be removed after each use (the end of the shift), or if there are any signs of respirator ineffectiveness (see below), and



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discarded. Do NOT put on a new cartridge until it is time to use the APR again.

2. Common signs of respirator ineffectiveness:
  - (a) Odor or taste detected;
  - (b) Eye/nose/throat irritation;
  - (c) Difficulty breathing, dizziness or distress.
3. All APR cartridges will be discarded at a minimum after every use; an APR is to be used only per Level 'C' and 'D' entry criteria, AND if measurements are below the STEL (or OSHA PEL, if no STEL). The attachment includes definitions of STEL and PEL.
4. Self-Contained Breathing Apparatus (SCBA)
  - (a) The "In-Service Date" will be recorded for every new SCBA unit placed in service. The SCBA is required for concentrations above the STEL (or OSHA PEL if no STEL listed), or oxygen concentration less than 19.5% or greater than 23.5%.

Every investigator in the Special Prosecutions Unit who has hazardous site entry responsibility and has successfully completed the 40-hour investigation and safety class is issued a SCBA pack and tank.(MSA Ultralite II model).

**Pre-use Inspection** -- A mask inspection, face piece seal check, regulator check and alarm verification are required to be completed each time the SCBA pack is put on. Guidelines regarding respirator use, face piece seal check, cleaning, storage, and replacement, are provided in the 40-Hour Investigation & Safety Class, the attachment in this policy, and in the manufacturer's literature.

### **405.9 SBCA TANKS**

Only locations authorized by the RPP Administrator shall be used to refill the tanks. Said "authorized" stations are "Certified Pure" annually, per guidelines CGA E, NFPA 1500 (G-7.1, '97). A list of authorized stations is available from the RPP Administrator.

### **405.10 FIT TESTS**

Cal/OSHA requires all SCBA and APR users to pass initial and annual fit testing, which will be coordinated by the RPP Administrator. Qualitative fit testing is done for every respirator. The SCBA masks will be tested in the negative-pressure mode (air supply not used). A certified respirator technician is required to do the fit testing, to include full documentation. A mask of identical make and size as the user's assigned APR & SCBA masks must be used for the fit tests.

### **405.11 AIR MEASURING/MONITORING EQUIPMENT**

As Special Prosecutions Unit investigators do not respond independently of a properly equipped Fire Department or County Hazardous Material Unit, the accompanying Fire Department or County

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Hazardous Material Unit provides air measuring/monitoring equipment. The lead investigator is responsible for consultation with the appropriate Site Safety Officer to obtain entry authorization and/or determination of appropriate level of Personal Protective Equipment.

#### **405.12 POST-EXPOSURE MEDICAL MONITORING**

In rare instances, investigators may be required to work in the presence of toxic gases or vapors (according to air monitoring equipment measurements, whether or not an APR or SCBA is worn) at levels above the OSHA PEL or STEL. They may also experience adverse physical symptoms even if exposed below these levels. If any of these situations exist, the PERSONNEL EXPOSURE REPORT form is to be completed. The Site Safety Officer should be consulted at that time, to help assess whether anyone should seek medical attention/treatment. Turn in the HAZARD MONITORING & PPE DETERMINATION, and PERSONNEL EXPOSURE REPORT paperwork to the RPP Administrator within 24 hours.

#### **405.13 PROGRAM EVALUATION**

The RPP Administrator, or the designee, will periodically review this RPP for potential changes and/or additions, to ensure the continued effectiveness of the written program. Specific duties include:

- (a) Annual review of the written RPP, and any necessary revisions to reflect changes in procedures, protocols, or responsible parties;
- (b) Selected SCBA and APR users will be consulted annually about their acceptance of wearing respirators.
- (c) This includes comfort, resistance to breathing, fatigue, interference with vision or communications, restriction of movement, interference with job performance, and confidence in the effectiveness of the respirator to provide adequate protection;
- (d) Annual review of the database record keeping program, medical records, exposure monitoring records, training programs, and fit testing records;
- (e) The information collected can serve as an indication of the degree of protection provided by respirators and the effectiveness of the RPP. Action shall be taken to correct any deficiencies noted with the Program.



## Electronic Surveillance Equipment

### 406.1 PURPOSE AND SCOPE

This policy provides guidance regarding the use of electronic surveillance equipment by investigators. This equipment transmits digital signals, audio signals or audio/video signals.

### 406.2 POLICY

Statutory and case law allows for the deployment and use of audio and video surveillance equipment by certain classifications of peace officers. Some categories of peace officers are not authorized to utilize electronic eavesdropping equipment (see PC § 633 for details). It is the intent of the Bureau of Investigation to ensure that all investigators comply with all laws regarding the surreptitious recording of the conduct of individuals under investigation by the District Attorney's Office. The equipment shall only be deployed or utilized in a manner consistent with the policies and procedures of the Bureau of Investigation and of the Office.

### 406.3 EQUIPMENT USE

- (a) When an investigator plans to deploy electronic audio equipment (body wires), which does not utilize microwave carriers, the investigator shall secure the authorization of his or her immediate supervisor prior to deploying the device.
- (b) A Commander shall be notified via the chain of command as soon as reasonably possible when an investigator believes the use of video surveillance or GPS surveillance equipment is necessary during the scope of his/her investigation.
- (c) The equipment shall only be deployed or utilized in accordance with state or federal law, and shall conform with existing case law.
- (d) Bureau of Investigation equipment may be loaned to another law enforcement agency for an approved operation after authorization has been obtained from a Commander. In such cases, the equipment shall only be utilized in accordance with existing law and in conjunction with a trained investigator of the Bureau of Investigation accompanying and overseeing the usage of the equipment.
- (e) Evidence obtained and recorded as a result of deploying the electronic surveillance equipment shall be kept as evidence in accordance with existing policies.
- (f) Generally, the deployment of electronic surveillance equipment shall be documented in a report outlining the use of the equipment and the disposition of any evidence obtained as a result of utilizing the equipment. The date, time and location of usage, in addition to the name of the person wearing the transmission equipment (if applicable), as well as the name(s) of the person(s) monitoring and recording the transmission(s), shall be included in the documentation.
- (g) Use of similar equipment belonging to another law enforcement agency must also be authorized by a Commander prior to usage.
- (h) Utilization of electronic surveillance equipment in violation of this policy is expressly forbidden.

*Electronic Surveillance Equipment*

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## **Chapter 5 - Support Services**

## Property and Evidence

### 500.1 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property.

### 500.2 DEFINITIONS

**Evidence** - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

**Property** - Includes all items of evidence, items taken for safekeeping and found property.

**Safekeeping** - Includes the following types of property:

- Property obtained by the Bureau of Investigation for safekeeping, such as a firearm
- Personal property of an arrestee not taken as evidence, and that is too large to be stored at the SBCSD detention facility. This property shall be labeled as "Personal Property."

**Found property** - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

### 500.3 PROPERTY DESIGNATION

In many instances, property may logically be thought of as fitting into two or more classifications. For example, recovered property in many instances will also be evidence. To eliminate confusion caused by multiple classification designations, the following policy will prevail:

- (a) All property shall receive one classification only.
- (b) Property classifications listed in the Definitions section above are listed according to priority.
- (c) Each item of property will be designated as belonging to the highest priority classification to which it may reasonably be entitled.

### 500.4 PROPERTY HANDLING

Any employee who comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the Property Inventory and Receipt form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The Property Inventory and Receipt form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

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Persons other than investigators may be assigned the task of completing the Property Inventory and Receipt forms, but the investigator (case agent) is responsible for signing the form. The form shall be filled out prior to leaving the location from which the property was taken.

#### 500.4.1 PROPERTY BOOKING PROCEDURE

All property must be booked prior to the employee going off-duty unless otherwise approved by a supervisor. Employees booking property shall do so in accordance with the Evidence Guide.

- (a) Complete the Property Inventory and Receipt form ("Property Report"), describing each item of property separately and listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- (b) The property shall be packaged in a 10"x13" manila evidence envelope if it is small enough to fit. No other size envelope will be accepted.
- (c) For evidence that needs to be packaged in a box, only Banker's Boxes will be accepted.
- (d) When the property is too large to be placed in a locker, contact a property custodian or a Supervising Investigator for booking instructions.

Property processed on a date later than the original transaction (using the same case number) will require a new Property Inventory and Receipt form.

[See attachment: Evidence Guide 1-2018.pdf](#)

#### 500.4.2 NARCOTICS, DANGEROUS DRUGS, AMMUNITION AND BIOLOGICAL MATTER

All narcotics, dangerous drugs, ammunition and biological matter shall be booked separately into the SBCSD lab in accordance with their procedures. When analysis has been completed, steps should be taken to reduce the amount retained to a manageable amount until the courts decide the issue. Biological matter may also be handled by the local law enforcement agency with proper jurisdiction. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately at the SBCSD lab. Contact a property custodian for assistance.

#### 500.4.3 EXPLOSIVES

Investigators who encounter a suspected explosive device shall promptly notify their immediate supervisor or Commander. The SBCSD 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 and volatile substances will not be retained in the District Attorney's facility. The SBCSD bomb squad and the San Bernardino County Fire Department (SBCFD) should be contacted for advice. The contact number for SBCFD is (909) 387-3080.

#### 500.4.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

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- (a) Bodily fluids are to be booked with SBCSD in accordance with their procedures.
- (b) All cash shall be counted in the presence of a Supervising Investigator. The envelope containing the cash shall be initialed by the booking investigator and the Supervising Investigator.

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.

#### **500.4.5 VEHICLES**

In addition to a Property Inventory and Receipt form and Property Sticker, a CHP 180 form shall be completed and attached for all vehicles stored as evidence. Vehicles should be towed by a tow company under contract with SANCATT. Contact a SANCATT member for assistance.

When a vehicle is seized, this information must be entered into the SVS system in CLETS by a trained investigative technician. Vehicles may only be stored with the approval of the Assistant Chief Investigator.

#### **500.4.6 RELINQUISHED FIREARMS**

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

- (a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or
- (b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or
- (c) The Automated Firearms System indicates that the firearm was reported lost or stolen.
  - 1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Bureau of Investigation has complied with the requirements of Penal Code § 33850 et seq.

The Property and Evidence Technician shall ensure the Custodian of Records is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Bureau of Administration Policy).

#### **500.5 PACKAGING OF PROPERTY**

Certain items require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs.



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- (b) Firearms (Investigators are to ensure they are unloaded, rendered safe and booked separately from ammunition).
  - 1. Use appropriate boxes, and gun ties, flex cuffs or red plastic safety flags as locking devices.
  - 2. Place the property sticker on the short side of the container or box.
  - 3. A check of the AFS shall be completed prior to booking the firearm. A printout of the AFS check must be attached to the Property Inventory and Receipt form prior to booking.
- (c) Property with more than one known owner.
- (d) Paraphernalia as described in Health and Safety Code § 11364.
- (e) Fireworks.
- (f) Contraband.

Refer to the Narcotics, Dangerous Drugs and Biological Matter subsection.

### **500.5.1 PACKAGING CONTAINER**

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Special boxes should be used to package knives, and syringe tubes should be used to package syringes and needles. Contact a property custodian for assistance. All packages of evidence shall be sealed using only approved evidence tape. The person packaging the property is to write his/her initials and the date where the tape and the packaging meet.

Employees shall notify the appropriate property custodian when booking property.

### **500.5.2 PACKAGING NARCOTICS**

The investigator seizing narcotics and dangerous drugs shall retain such property in his/her possession, or have another employee take possession, until it is properly weighed, packaged, tagged/labeled, and booked at the SBCSD lab.

### **500.6 EVIDENCE HELD FOR FINGERPRINT/CHEMICAL PROCESSING**

Avoid handling this type of evidence, except when necessary. Attach a property sticker. Alert other employees to use caution to prevent unnecessary handling, pending possible fingerprint development.

### **500.7 PROPERTY STORAGE**

The following property storage locations are authorized:

- (a) Evidence vault.
- (b) Pre-designated storage facilities.
- (c) Tow agencies.
- (d) Location approved by a Commander for property that is unusual in nature or requiring a unique storage facility.

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Property/evidence may be stored in a secure location on a temporary basis when the property custodian is not available. The responsibility for these items remains with the case agent and should be noted in the case agent's report to maintain the chain of custody.

Valuables, such as those listed below, shall be hand carried to the property custodian by the case agent for storage in the sections evidence vault.

- (a) Cash.
- (b) Valuable coins or stamps.
- (c) Gold or precious metals.
- (d) Jewelry.
- (e) Any item of intrinsic, collectible, or negotiable value.

No evidence will be stored in or on an employee's desk, file cabinet, or other office areas unless clear exigent circumstances exist. In those cases, the evidence shall be under the strict control of the employee handling the evidence. Chain of custody will be documented at all times.

County property that is not consigned to, or owned by, the District Attorney's Office but is brought to the attention of the Office, shall be returned directly to the responsible County department. If the responsible County department is unable to assume the immediate responsibility of the item(s), then the employee shall comply with normal property processing procedures.

### **500.8 STOLEN PROPERTY IN PAWN SHOPS**

- (a) The Bureau of Investigation will physically seize stolen property that has been located in a business establishment, as part of its investigation. The investigator should advise the business owner that the property has been reported stolen or is evidence of a serious crime.
- (b) On the bottom of the receipt, the investigator shall write the following: "This (name item) will not be returned to the victim without giving (name of pawn shop) 15 days written notice to respond to their interest."
- (c) The investigator who seizes the evidence is responsible for notification.
- (d) The litigation of the ownership interests in the property is civil in nature and is between the victim of the theft and the business owner. If the Bureau of Investigation takes possession of property, and ownership claims are made by both the victim and business owner, the Office is required to retain the property until ownership is determined by agreement between the parties or by a magistrate.

### **500.9 RECORDING OF PROPERTY**

The Property and Evidence Technician 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 in the evidence tracking system.

### *Property and Evidence*

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A property number shall be obtained for each item or group of items. This number shall be recorded in the evidence tracking system.

Any changes in the location of property held by the San Bernardino County District Attorney's Bureau of Investigation shall be noted in the evidence tracking system.

#### **500.10 PROPERTY CONTROL**

Each time the Property and Evidence Technician receives property or releases property to another person, he/she shall enter this information into the evidence tracking system. Investigators desiring property for court, or other legitimate and authorized purpose, shall contact the Property and Evidence Technician at least one work day prior.

##### **500.10.1 RESPONSIBILITY OF OTHER PERSONNEL**

Every time property is released or received, an appropriate entry and in the evidence tracking system shall be completed to maintain the chain of evidence.

When opening packages that have been released from an evidence room, employees shall not open the package from an end that had been previously sealed. The employee shall create a new opening, then seal that new opening when repackaging the evidence. This assists with identifying the chain of evidence.

##### **500.10.2 STATUS OF PROPERTY**

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to investigators for investigative purposes, or for court, shall be noted in the evidence tracking system, stating the date, time and to whom released.

The Property and Evidence Technician shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded in the evidence tracking system, indicating date, time, and the person who returned the property.

##### **500.10.3 RELEASE OF PROPERTY**

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or 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,

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property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A Property and Evidence Technician 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 Inventory and Receipt form. The release information will be documented in the evidence tracking system.

Under no circumstances shall any firearm, magazine or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

The Property and Evidence Technician 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 of Investigation 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).

#### 500.10.4 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Bureau of Investigation, 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 of Investigation may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

#### 500.10.5 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm, the Property and Evidence Technician shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code 6389(g); Penal Code § 33855). The release of any weapons shall be accomplished in the presence of an investigator.

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### 500.10.6 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the San Bernardino County District Attorney's Bureau of Investigation determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

### 500.10.7 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

- (a) If a petition for a hearing regarding the return of 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 of Investigation 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 of Investigation 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.

### 500.10.8 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION

The Bureau of Investigation shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

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#### **500.11 EVIDENCE LOCKER ACCESS**

Access to evidence facilities shall be limited to the designated property custodian(s), and designated management and supervisory personnel. Access to District Attorney's Office evidence facilities are restricted via electronic access cards. Some of the facilities have additional security, such as independent alarms and security cameras. Door keys may be assigned to appropriate Bureau of Investigation personnel as determined by the Chief Investigator or designee. Supervising Investigators are expected to routinely inspect the evidence lockers located under their management, and shall have access to the locker when accompanied by a property custodian.

#### **500.12 PROSECUTORS PROHIBITED FROM MAINTAINING EVIDENCE**

Evidence from an outside agency's investigators will not be maintained by a deputy district attorney before, during, or after a trial. Deputy district attorneys should seek assistance from the Bureau of Investigation if storage becomes an issue.

#### **500.13 DISPOSITION OF PROPERTY**

During the months of March and September each year, evidence room personnel shall determine if all of the evidence in their care must be retained longer. During those months, evidence room personnel shall make notification of the evidence stored to the person booking such evidence. The notification shall include sufficient information so that the person notified will be able to identify the evidence and case. The person notified shall determine if the evidence is still required and if so, complete the notification form and return it to the appropriate evidence room person. If the evidence is no longer required, the concerned investigator shall determine the appropriate means of release and cause the form to be completed and returned to the appropriate evidence room personnel. In either case, the investigator shall return the completed form within 30 days.

Upon notification that the evidence is no longer required, the evidence room personnel shall verify that the method of disposal is appropriate and arrange for the disposal. When evidence is released other than to be destroyed, a receipt will be obtained and filed. Any firearms or narcotics to be destroyed shall be delivered to the San Bernardino County Sheriff's Department, which in turn shall destroy it.

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 Property and Evidence Technician 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 the person who booked the property.

##### **500.13.1 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:

## *Property and Evidence*

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- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et sec.)
- Unclaimed, stolen or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

### 500.13.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Bureau of Investigation shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than \$15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this Bureau of Investigation to fund official law enforcement operations.

### 500.13.3 RETENTION OF BIOLOGICAL EVIDENCE

The Property and Evidence Division Supervisor or designee shall ensure that no biological evidence obtained by the Bureau of Investigation is destroyed without prior approval from the deputy district attorney assigned to the case, or a supervising deputy district attorney. Refer to section 800.10.3 - Release of Property.

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 District Attorney or designee.

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 processed and retained as required by Penal Code § 680. Even after expiration of an applicable statute of limitations, the Commander overseeing evidence should be consulted and the sexual assault victim should be notified.

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### **500.14 INSPECTIONS OF THE EVIDENCE ROOM**

- (a) On a periodic 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.
- (c) An annual audit of evidence held by the Bureau of Investigation should be conducted by a Commander (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.



## Computers and Digital Evidence

### 501.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

### 501.2 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.
- (f) Notify an evidence technician ahead of time so that person may assist with the booking process at the appropriate property/evidence room.
- (g) 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.
- (h) Book all computer items as evidence. Do not store computers where normal room temperature and humidity is not maintained.
- (i) 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.

## *Computers and Digital Evidence*

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4. If it can be determined, how it was being used.
- (j) 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.
- (k) Obtain relevant passwords, "patterns" and/or unlocking codes for all devices.
  1. Check around and under the monitor and keyboard for written password and code information.

When seizing computers and other digital media, seek specific guidance from the case agent and forensic examiners to avoid collection of unnecessary items.

### **501.2.1 BUSINESS OR NETWORKED COMPUTERS**

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Investigators should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

A certified forensic computer examiner should be notified ahead of time if it is believed assistance may be needed. To help ensure the necessary examiner(s) will be available, notification should occur a minimum of two weeks ahead of time. The examiner will provide guidance and assistance based on established protocol.

### **501.3 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 ask a certified forensic computer examiner to copy the contents to an appropriate form of storage media.
- (c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.
- (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.

### **501.4 SEIZING MOBILE DEVICES**

Mobile devices (also known as PCDs) 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.

## *Computers and Digital Evidence*

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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. If the device is on, place the device in "airplane mode" and turn off the WiFi. Obtain the password or "pattern" for accessing the contents, if possible.
- (c) The device should be wrapped in foil to prevent the device from sending or receiving information from its host network.
- (d) When seizing the devices, also seize the charging units.

### **501.5 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.

#### **501.5.1 COLLECTION OF DIGITAL EVIDENCE**

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission, unless an original and unaltered version is also maintained. Any altered version shall be labeled as such. All photographs taken will be preserved regardless of quality, composition or relevance.

#### **501.5.2 PRESERVATION OF DIGITAL EVIDENCE**

- (a) 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.
- (b) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

## Custodian of Records

### 502.1 PURPOSE AND SCOPE

This policy establishes the guidelines for the operational functions of the San Bernardino County District Attorney's Bureau of Investigation Custodian of Records. The policy addresses Bureau of Investigation file access and internal requests for case reports.

### 502.2 POLICY

It is the policy of the San Bernardino County District Attorney's Bureau of Investigation to maintain Bureau of Investigation records securely, professionally, and efficiently.

### 502.3 RESPONSIBILITIES

#### 502.3.1 CUSTODIAN OF RECORDS

The responsibilities of the Custodian of Records include but are not limited to:

- (a) Maintaining a records management system for case reports.
  - (a) The records management system should include a process for numbering, identifying, tracking, and retrieving case reports.
- (b) Entering case report information into the records management system.
  - 1. Modification of case reports shall only be made when authorized by a supervisor.
- (c) Providing employees of the Bureau of Investigation with access to case reports when needed for investigation or court proceedings.
- (d) Assist management, if necessary, to maintain compliance with federal, state, and local regulations regarding reporting requirements of crime statistics. This includes reporting statistical data to the California Department of Justice (DOJ) for:
  - (a) All officer-involved shootings and incidents involving use of force resulting in serious bodily injury (Government Code § 12525.2).
  - (b) Suspected hate crimes (Penal Code § 13023).
  - (c) Complaints of racial bias against investigators (Penal Code § 13012; Penal Code § 13020).
  - (d) Civilian complaints made against investigators (Penal Code § 832.5; Penal Code § 13012).
  - (e) Stop data required by Government Code § 12525.5 and 11 CCR 999.226.
    - (a) The reported information must not contain personally identifiable information of the person stopped or other information exempt from disclosure pursuant to Government Code § 12525.5 (11 CCR 999.228).
- (e) Assist management, if requested, to maintain compliance with federal, state, and local regulations regarding criminal history reports and auditing.

## *Custodian of Records*

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- (f) Identifying missing case reports and notifying the responsible employee and employee's supervisor.

### 502.3.2 CUSTODIAN OF RECORDS PROCEDURES

The Custodian of Records should establish procedures that address:

- (a) Identifying by names of persons in reports.
  - 1. Confidentiality will be maintained, as needed.
- (b) Classifying reports by type of incident or crime.
- (c) Tracking reports through the approval process.
- (d) Assigning alpha-numerical records to all arrest records.
- (e) Managing a warrant and wanted persons file.

### 502.3.3 CASE TRACKING

The Custodian of Records should disseminate a list of case numbers drawn by investigative staff to each Supervising Investigator on a monthly basis. They will use this document to reconcile the status of cases, monitor case progress and help ensure all reports are written and submitted in a timely manner. Supervising Investigators are also responsible for tracking and reviewing all supplemental reports pertaining to any additional investigation, interviews, search warrants, arrests, or any other documents that may be completed after the initial report was submitted, reviewed and filed.

### 502.4 CONFIDENTIALITY

The Custodian of Records has access to information that may be confidential or sensitive in nature. The Custodian of Records shall not 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 and established Custodian of Records procedures.

## Records Maintenance and Release

### 503.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of Bureau of Investigation records. Protected information is separately covered in the Protected Information Policy.

### 503.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 6250 et seq., "CPRA"). Throughout this policy, portions of the CPRA and other laws are summarized. In the event of a conflict between this policy and the CPRA or any relevant law, such law shall take precedence.

### 503.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief Investigator shall designate a Custodian of Records. The responsibilities of the Custodian of Records include, but are not limited to:

- (a) Assisting with managing the records management system for the Bureau of Investigation, including the retention, archiving, release and destruction of Bureau of Investigation public records.
- (b) Maintaining and updating the Bureau of Investigation records retention schedule including:
  1. Identifying the minimum length of time the Bureau of Investigation must keep records.
  2. Identifying the Bureau of Investigation division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of Bureau of Investigation public records as reasonably necessary for the protection of such records.
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Follow rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 6253 and 6253.9, and County Code 16.0207B - County Fee: Photocopy Services).
- (g) Assist management, if requested, with determining how the District Attorney's website may be used to post public records in accordance with Government Code § 6253.
- (h) Assist management, if requested, with ensuring that public records posted on the District Attorney's website meet the requirements of Government Code § 6253.10 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.

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- (i) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 6270.5) is publicly available upon request and posted in a prominent location on the District Attorney's website.

### **503.4 PROCESSING REQUESTS FOR PUBLIC RECORDS**

Any Bureau of Investigation employee who receives a request for any record shall, without unnecessary delay, route the request to the Custodian of Records or the authorized designee who will then contact the Appellate Unit, as necessary and dictated in subsequent sections of this policy.

#### **503.4.1 REQUESTS FOR RECORDS**

Any member of the public, including the media and elected officials, may access records of the Bureau of Investigation, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 6253). Public access to records shall be according to current applicable laws.

The processing of requests for any record is subject to the following (Government Code § 6253):

- (a) The Bureau of Investigation is not required to create records that do not exist.
- (b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain Bureau of Investigation records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 6254.30).
- (c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Bureau of Investigation 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 Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 6253.1).
  2. If the record requested is available on the District Attorney's website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.
- (d) Upon request, a record shall be provided in an electronic format utilized by the Bureau of Investigation. Records shall not be provided only in electronic format unless specifically requested (Government Code § 6253.9).

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- (e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
  - 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 of Investigation-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
- (f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure (Government Code § 6255). The written response shall also include the names, titles or positions of each person responsible for the denial.

### **503.5 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 of Investigation record, including traffic collision reports, are restricted except as authorized by the Bureau of Investigation, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Social Security numbers (Government Code § 6254.29).
- (c) Personnel records, medical records, and similar records which would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 6254; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).
  - (a) 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.
  - (b) The identity of any investigator subject to any criminal or administrative investigation shall not be released without the consent of the involved investigator, prior approval of the Chief Investigator or as required by law.
- (d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors and victims of certain offenses (e.g., sex crimes or human trafficking, Penal Code § 293). Addresses and telephone numbers of a victim or a witness to any arrested person or to any person who may be a defendant in a criminal action shall not be disclosed, unless it is required by law (Government Code § 6254; Penal Code § 841.5).
  - (a) Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, adult abuse) or their representatives shall be



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provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.

- (b) Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).
- (e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 6254.4.5.
- (f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating investigators (Evidence Code § 1041; Government Code § 6254).
  - 1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).
- (g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.
  - 1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, County Counsel or the courts pursuant to Penal Code § 1054.5.
- (h) Certain types of reports involving, but not limited to, child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).
- (i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).
- (j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 6254).
- (k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies and those individuals and their authorized representatives set forth in Vehicle Code § 20012.
- (l) Any record created exclusively in anticipation of potential litigation involving this Bureau of Investigation or the Office (Government Code § 6254).
- (m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 6254.25).

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- (n) Records relating to the security of the Bureau of Investigation's electronic technology systems (Government Code § 6254.19).
- (o) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(8)).
- (p) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege (Government Code § 6254).
- (q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).

### **503.6 SUBPOENAS AND DISCOVERY REQUESTS**

Any employee who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Appellate Unit for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, the decision to comply with a subpoena duces tecum shall be made by the Appellate Unit or the assigned deputy district attorney (if appropriate).

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the Appellate Unit or the assigned deputy district attorney (if appropriate).

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to the Appellate Unit, or the assigned deputy district attorney (if appropriate), so that a timely response can be prepared.

### **503.7 SEALED RECORD ORDERS**

Sealed record orders received by the Bureau of Investigation shall be reviewed for appropriate action by the Appellate Unit. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction. Once the record is sealed, employees 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 Custodian of Records 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.

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### 503.7.1 SEALED JUVENILE ARREST RECORDS

Upon receiving notice from a probation department to seal juvenile arrest records pursuant to Welfare and Institutions Code § 786.5, the Custodian of Records 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).

### 503.8 SECURITY BREACHES

The Custodian of Records shall ensure notice is given any time there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any Bureau of Investigation information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Bureau of Investigation determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following:

- Social Security number
- Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
- Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
- Medical information
- Health insurance information
- A username or email address, in combination with a password or security question and answer that permits access to an online account
- Information or data collected by Automated License Plate Reader (ALPR) technology
- Unique biometric data

### 503.8.1 FORM OF NOTICE

- (a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:
1. The date of the notice.
  2. Name and contact information for the San Bernardino County District Attorney's Bureau of Investigation.

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3. A list of the types of personal information that were or are reasonably believed to have been acquired.
  4. The estimated date or date range within which the security breach occurred.
  5. Whether the notification was delayed as a result of a law enforcement investigation.
  6. A general description of the security breach.
  7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a Social Security number or a driver license or California identification card number.
- (b) The notice may also include information about what the San Bernardino County District Attorney's Bureau of Investigation has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).
- (c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):
1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Bureau of Investigation in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
  2. When the breach involves an email address that was furnished by the San Bernardino County District Attorney's Bureau of Investigation, notification of the breach should not be sent to that email address but should instead be made by another appropriate medium as prescribed by Civil Code § 1798.29.

### 503.8.2 MANNER OF NOTICE

- (a) Notice may be provided by one of the following methods (Civil Code § 1798.29):
1. Written notice.
  2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
  3. Substitute notice if the cost of providing notice would exceed \$250,000, the number of individuals exceeds 500,000 or the Bureau of Investigation does not have sufficient contact information. Substitute notice shall consist of all of the following:
    - (a) Email notice when the Bureau of Investigation has an email address for the subject person.
    - (b) Conspicuous posting of the notice on the Office's webpage for a minimum of 30 days.

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4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.
- (b) If a single breach requires the Bureau of Investigation to notify more than 500 California residents, the Bureau of Investigation shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

### **503.9 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS**

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 6254(f)(4)).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an investigator, or 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 § 6254(f)(4)).

The Custodian of Records should work as appropriate with the Chief Investigator or the Assistant Chief Investigator 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.

#### **503.9.1 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:

- (a) Disclosure may be delayed up to 45 days from the date the Bureau of Investigation knew or reasonably should have known about the incident.
- (b) Delay of disclosure may continue after the initial 45 days and up to one year if the Bureau of Investigation demonstrates that disclosure would substantially interfere with the investigation.
- (c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 6254(f)(4)).

#### **503.9.2 NOTICE OF DELAY OF RELEASE**

When there is justification to delay disclosure of a recording, the Chief Investigator or designee shall provide written notice to the requester as follows (Government Code § 6254(f)(4)):

- (a) During the initial 45 days, the Chief Investigator or designee shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.

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- (b) When delay is continued after the initial 45 days, the Chief Investigator or designee shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Chief Investigator should assess 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.

### 503.9.3 REDACTION

If the Custodian of Records, in consultation with the Chief Investigator or authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Bureau of Investigation should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 6254(f)(4)).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 6254(f)(4)).

### 503.9.4 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 of Investigation may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 6254(f)(4)):

- (a) The person in the recording whose privacy is to be protected, or his/her authorized representative.
- (b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.
- (c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Bureau of Investigation determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Chief Investigator or designee shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 6254(f)(4)).

The Bureau of Investigation may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 6254(f)(4)(A)).

## Protected Information

### 504.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by employees of the San Bernardino County District Attorney's Bureau of Investigation. This policy addresses the protected information that is used in the day-to-day operation of the Bureau of Investigation and not the public records information covered in the Records Maintenance and Release Policy.

#### 504.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by employees of the San Bernardino County District Attorney's Bureau of Investigation 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.

### 504.2 POLICY

Employees of the San Bernardino County District Attorney's Bureau of Investigation will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

### 504.3 RESPONSIBILITIES

The Chief Investigator shall select an employee of the Bureau of Investigation to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Ensuring employee compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records and California Law Enforcement Telecommunications System (CLETS).
- (b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.

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- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

### **504.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, San Bernardino County District Attorney's Bureau of Investigation policy or training. Only those employees who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the employee 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 an employee to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

#### **504.4.1 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).

Employees misusing records may face discipline, up to and including termination.

### **504.5 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 Custodian of Records for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Bureau of Investigation 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 Bureau of Administration to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

#### **504.5.1 REVIEW OF CRIMINAL OFFENDER RECORD**

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

Individuals shall be allowed to review their arrest or conviction record on file with the SBCDA after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).



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### 504.5.2 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 of Investigation 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, a MDC or Bureau of Investigation-issued cellular telephone should be utilized when practicable. If neither are available, unencrypted radio transmissions shall be subject to the following:

- 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.

### 504.6 SECURITY OF PROTECTED INFORMATION

The Chief Investigator will select an employee of the Bureau of Investigation to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- (d) Tracking, documenting and reporting all breach of security incidents to the Chief Investigator and appropriate authorities.

#### 504.6.1 EMPLOYEE RESPONSIBILITIES

Employees 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).

### 504.7 TRAINING

All employees authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies

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authorized access and use of protected information, as well as its proper handling and dissemination.

#### **504.8 CALIFORNIA RELIGIOUS FREEDOM ACT**

Employees 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).

## Chapter 6 - Personnel

## Recruitment and Selection

### 600.1 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 Bernardino County District Attorney's Bureau of Investigation and that are promulgated and maintained by the County's Department of Human Resources. Refer to County Policy 07-18 and County Policy 07-20.

### 600.2 POLICY

In accordance with applicable federal, state, and local law, the San Bernardino County District Attorney's Bureau of Investigation provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Bureau of Investigation does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

The Bureau of Investigation 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.

### 600.3 SELECTION PROCESS

The Bureau of Investigation shall actively strive to identify a diverse group of candidates that have in some manner distinguished themselves as being outstanding prospects. Minimally, the Bureau of Investigation should employ a comprehensive screening, background investigation and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, current addresses, and education)
- (b) Driving record
- (c) Reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.) and California's Investigative Consumer Reporting Agencies Act (ICRAA)

## *Recruitment and Selection*

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- (g) Local, state and federal criminal history record checks
- (h) Polygraph examination
- (i) Medical and psychological examination
- (j) Selection panel

### **600.4 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 Bernardino County District Attorney's Bureau of Investigation (11 CCR 1953).

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

#### **600.4.1 BACKGROUND INVESTIGATION UPDATE**

A background investigation update may, at the discretion of the Chief Investigator, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the San Bernardino County District Attorney's Bureau of Investigation, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

#### **600.4.2 NOTICES**

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

#### **600.4.3 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).

#### **600.4.4 REVIEW OF SOCIAL MEDIA SITES**

The Assistant Chief Investigator should ensure that potentially impermissible candidate information is kept confidential; having in mind the legal rights of the candidate; ensuring material and information to be considered are verified, accurate and validated; and fully complying with applicable privacy protections and local, state and federal law.

#### **600.4.5 DOCUMENTING AND REPORTING**

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions.

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The report and all supporting documentation shall be included in the candidate's background investigation file (11 CCR 1953).

### **600.4.6 RECORDS RETENTION**

The background report and all supporting documentation for all employees shall be maintained for a minimum of 10 years after separation from employment and in accordance with the County's established records retention schedule (Government Code § 12946; 11 CCR 1953). The retention timeline for candidates who are not hired is three years.

### **600.5 DISQUALIFICATION GUIDELINES**

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework. The evaluation of a candidate is not limited to the above listed areas.

### **600.6 EMPLOYMENT STANDARDS**

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.), and by the County of San Bernardino.

## Evaluation of Employees

### 601.1 PURPOSE AND SCOPE

The Bureau of Investigation's employee performance evaluation system is designed to record work performance for both the Bureau of Investigation and the employee, providing recognition for good work and developing a guide for improvement.

### 601.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation utilizes Work Performance Evaluation (WPE) and Employee Performance Appraisal forms, commonly known collectively as the WPE, to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion and termination. The Work Performance Evaluation (WPE) and Employee Performance Appraisal forms are 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 of Investigation 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.

### 601.3 EVALUATION PROCESS

WPEs will cover a specific period and should be based on documented performance during that period. WPEs 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 supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment. This subject matter is covered in the County's Fundamentals of Supervision which all supervisors must attend.

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.

### *Evaluation of Employees*

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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.

Refer to County Personnel Rules Section 8 and the appropriate MOU.

#### **601.4 FULL-TIME PROBATIONARY PERSONNEL**

Professional staffpersonnel are on probation for 1,040 regular work hours. Evaluations are completed according to County protocol during the probationary period.

Investigators are on probation for 2,080 regular work hours. If an investigator is hired for the "Investigator" position, then promoted to the "Senior Investigator" position a new probationary period of 2,080 regular work hours must be successfully completed. Evaluations are completed according to County protocol during the probationary period.

When an investigator is promoted to Supervising Investigator, a new probationary period of 1,600 hours must be successfully completed.

#### **601.5 EVALUATION MEETING**

When the supervisor has completed the WPE, and after the appropriate Commander has reviewed the WPE, 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. The supervisor will then forward the WPE to the appropriate Commander for final review and signature.

##### **601.5.1 NON-DISCRIMINATION/HARASSMENT POLICY**

At the time of each employee's annual evaluation, the reviewing supervisor shall provide the employee with a copy of the County's Non-Discrimination/Harassment policy. The employee shall sign the designated line on the WPE form, stating he/she has received a copy of the policy, understands the policy and will comply. Additionally, the employee will be provided an Employee Acknowledgement of Policies form to complete and sign.

#### **601.6 EVALUATION DISTRIBUTION**

The original WPE shall be maintained in the employee's personnel file held by the Chief Investigator for the tenure of the employee's employment. A copy will be given to the employee, a copy will be placed in the personnel file maintained by the employee's supervisor and a copy will be forwarded to County Department of Human Resources.



## Grievance Procedure

### 602.1 PURPOSE AND SCOPE

It is the policy of this Bureau of Investigation 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 of Investigation's philosophy is to promote a free verbal communication between employees and supervisors.

### 602.2 PROCEDURE

An employee is to follow the procedures established based on his/her respective MOU.

## Anti-Retaliation

### 603.1 PURPOSE AND SCOPE

This policy prohibits retaliation against employees 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 employees.

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 employee access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of an employee pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

### 603.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation employees 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. Refer to County Policy 07-01 and County Policy 10-06.

### 603.3 RETALIATION PROHIBITED

No employee may retaliate against any person for engaging in lawful or otherwise permitted behavior; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

## *Anti-Retaliation*

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### **603.4 COMPLAINTS OF RETALIATION**

Any employee who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, Commander, the Assistant Chief Investigator, the Chief Investigator or the County Director of Human Resources.

Employees 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. Employees 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 employee is known, thereby allowing investigators to obtain additional information from the reporting employee. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting employee'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 employee is part of the investigative process.

### **603.5 SUPERVISOR RESPONSIBILITIES**

Supervisors are expected to remain familiar with this policy and ensure that employees 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 employee 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 employee making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of an employee to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by an employee who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

## *Anti-Retaliation*

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### **603.6 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 employees 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.

### **603.7 WHISTLE-BLOWING**

California law protects employees 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. Employees 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.

Employees are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Employees 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 a Commander for investigation pursuant to the Personnel Complaints Policy.

#### **603.7.1 DISPLAY OF WHISTLE-BLOWER LAWS**

The Bureau of Investigation shall display a notice to employees 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).

### **603.8 RECORDS RETENTION AND RELEASE**

The Custodian of Records shall ensure that documentation of investigations is maintained for five years and in accordance with the established records retention schedules.

## *Anti-Retaliation*

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### **603.9 TRAINING**

The policy should be reviewed with each new employee.

All employees should receive periodic refresher training on the requirements of this policy.

# Reporting of Employee Convictions and Involvement in Criminal Incidents

## **604.1 PURPOSE AND SCOPE**

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Bureau of Investigation of any past and current criminal convictions.

## **604.2 DOMESTIC VIOLENCE CONVICTIONS, OUTSTANDING WARRANTS AND RESTRAINING ORDERS**

California and federal law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All employees are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction, outstanding warrant, or court order and shall promptly report any such conviction, outstanding warrant, or court order to a supervisor, as provided in this policy.

## **604.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS**

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo contendere plea. Refer to Government Code § 1029 for exceptions.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee's ability to fully perform the duties of the job.

Outstanding warrants as provided in Penal Code § 29805 also place restrictions on an employee's ability to possess a firearm.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by employees of the Bureau of Investigation may be inherently in conflict with the mission of the District Attorney's Office and of the Bureau of Investigation, law enforcement duties and the public trust.

## **604.4 REPORTING PROCEDURE**

All employees of the Bureau of Investigation and all retired investigators with an identification card issued by the Bureau of Investigation shall promptly, within one business day, notify their immediate supervisor (or the Chief Investigator in the case of retired investigators) in writing of any past or current criminal arrest, outstanding warrant or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

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## *Reporting of Employee Convictions and Involvement in Criminal Incidents*

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All employees and all retired investigators with an identification card issued by the Bureau of Investigation shall further promptly notify their immediate supervisor (or the Chief Investigator in the case of retired investigators) in writing if the employee or retiree becomes the subject of a domestic violence restraining order or similar court order or becomes the subject of an outstanding warrant.

Any employee whose criminal conviction unduly restricts or prohibits that employee from fully and properly performing his/her duties may be disciplined, up to and including termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the employee on his/her own time and expense.

Any employee failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

Refer to County Policy 07-17.

### **604.5 PROCEDURE FOR RELIEF**

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their employment. Relief from any domestic violence or other restriction shall also be pursued through the employee's own resources and on the employee's own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned or disciplined. The Bureau of Investigation may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

#### **604.5.1 NOTIFICATION REQUIREMENTS**

The Specialized Prosecution Supervisor shall submit within 30 days of final disposition a notice to the Commission on Peace Officer Standards and Training (POST) of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this Bureau of Investigation or any former peace officer if this Bureau of Investigation was responsible for the investigation (11 CCR 1003).

The Specialized Prosecution Supervisor shall submit within 30 days a notice to POST of any appointment, termination, reinstatement, name change, or status change regarding any peace

## *Reporting of Employee Convictions and Involvement in Criminal Incidents*

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officer, reserve peace officer, public safety dispatcher, and records supervisor employed by this Bureau of Investigation (11 CCR 1003).

### **604.6 INVOLVEMENT IN CRIMINAL INCIDENTS**

If an employee knowingly becomes the suspect of a criminal investigation, or is arrested for, charged with and/or cited for a felony or misdemeanor, he/she shall as soon as practical, within 24 hours, notify the Chief Investigator via the chain of command. The employee shall speak truthfully when making the notification, and must not provide any misleading information.

To avoid the possibility of a conflict of interest arising, the District Attorney and/or his/her management staff must evaluate the prosecution of criminal offenses in which an employee of the District Attorney's Office is a victim. In cases where there is deemed to be a conflict, the case may be referred to the California State Attorney General's Office for prosecution.

Since this evaluation must be made, employees shall notify the Chief Investigator via the chain of command when they become victims of any reported criminal offense.



## Drug- and Alcohol-Free Workplace

### 605.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace.

### 605.2 POLICY

It is the policy of the Bureau of Investigation to provide a drug- and alcohol-free workplace for all employees, in accordance with County Policy 07-17.

### 605.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on Bureau of Investigation time can endanger the health and safety of Bureau of Investigation employees and the public. Such use shall not be tolerated (41 USC § 8103).

Employees who have consumed an amount of an alcoholic beverage, marijuana, cannabis product, or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. An affected employee shall notify a supervisor, in accordance with the requirements stated in the relevant MOU, that he/she will not be able to report to work. If the employee is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. Sick Leave shall not be used for such an absence, with the exception of medication prescribed by a physician or dentist for a current illness or condition. If the employee is adversely affected while on-duty, he/she shall be immediately removed and released from work (see Work Restrictions in this policy).

#### 605.3.1 USE OF MEDICATIONS

Employees should avoid taking any medications that will impair their ability to safely and completely perform their duties. Any employee who is medically required or has a need to take any such medication shall report that need to his/her immediate supervisor prior to commencing any on-duty status.

No employee shall be permitted to work or drive a vehicle owned or leased by the Bureau of Investigation while taking any medication that has the potential to impair his/her abilities, without a written release from his/her physician.

#### 605.3.2 USE OF MARIJUANA

Possession of marijuana, including medical marijuana, or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action, up to and including termination.

### 605.4 EMPLOYEE RESPONSIBILITIES

Employees shall report for work in an appropriate mental and physical condition. Employees are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances, marijuana or cannabis products, or alcohol on Bureau of Investigation

## *Drug- and Alcohol-Free Workplace*

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premises or on Bureau of Investigation time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Employees who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance. Employees shall notify their supervisor, and receive supervisor approval, prior to consuming alcohol while on-duty.

Employees shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow employee poses a risk to the health and safety of the employee or others due to drug or alcohol use.

Employees are required to notify their immediate supervisors as soon as possible and within one business day after any criminal arrest or conviction.

### **605.5 EMPLOYEE ASSISTANCE PROGRAM**

Insurance coverage that provides treatment for drug and alcohol abuse may be available. Employees should contact their insurance providers for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

### **605.6 WORK RESTRICTIONS**

If an employee informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the employee may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that an employee is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the employee from continuing work and shall ensure that he/she is safely transported away from the Bureau of Investigation. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required prior to returning to work.

### **605.7 RIGHT TO SEARCH**

The Office reserves the right to search, without employee consent, all areas and property in which the County or Office maintains control or joint control with the employee; except space for storage that may be assigned to investigators. No investigators shall have their assigned space for storage searched except in their presence, or with their consent, or unless a valid search warrant has been obtained, or when they have been notified that a search will be conducted. This section shall apply only to space for storage that are owned or leased by the Office or County. The Office may notify the appropriate law enforcement agency that an employee may have illegal drugs in his/her possession or in an area not jointly or fully controlled by the Office.

No persons shall physically search an employee without the freely given consent of that employee.

An employee must also give consent and be present in order for that employee's personal

## *Drug- and Alcohol-Free Workplace*

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possessions to be searched. An exception would exist when an investigator (or other peace officer) is conducting a criminal investigation and has the proper authority to conduct the specific search (i.e., reasonable suspicion, probable cause, search warrant).

All searches shall also be in accordance with relevant current laws, policies, rules and MOUs.

### **605.8 SUPERVISOR RESPONSIBILITY**

Managers and supervisors are responsible for reasonable enforcement of this policy. Supervisors shall notify the Chief Investigator or designee when they have reasonable suspicion to believe an employee may have illegal drugs in his/her possession, or in an area not jointly or fully controlled by the Office or the County. If the Chief Investigator or designee concurs that there is reasonable suspicion of illegal drug possession, the Chief Investigator or designee shall notify the appropriate law enforcement agency.

### **605.9 REQUESTING SCREENING TESTS**

A supervisor may have an employee submit to a screening test if the supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently.

#### **605.9.1 SUPERVISOR RESPONSIBILITY**

The supervisor shall prepare a written record documenting the specific facts that led to the decision to request the test, and shall inform the employee in writing of the following:

- (a) The test will be given to detect either alcohol or drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in disciplinary action, up to and including termination.

#### **605.9.2 SCREENING TEST REFUSAL**

An employee may be subject to disciplinary action, up to and including termination, if he/she:

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.
- (c) Violates any provisions of this policy.

### **605.10 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 an employee, the Bureau of Investigation will take appropriate disciplinary

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action, up to and including termination, and/or requiring the employee to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

### **605.11 CONFIDENTIALITY**

The Bureau of Investigation recognizes the confidentiality and privacy due to its employees. 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 employee involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately from the employee's other personnel files.

[See attachment: County Substance Abuse-Reasonable Suspicion Drug and Alcohol Testing policy 9-12-06.pdf](#)

# Communicable Diseases

## 606.1 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of Bureau of Investigation employees contracting and/or spreading communicable diseases.

### 606.1.1 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 an employee's position at the San Bernardino County District Attorney's Bureau of Investigation. Determination is made without regard to use of personal protective equipment (PPE).

## 606.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation is committed to providing a safe work environment for its employees. Employees should be aware that they are ultimately responsible for their own health and safety.

## 606.3 EXPOSURE PREVENTION AND MITIGATION

### 606.3.1 GENERAL PRECAUTIONS

All employees are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (8 CCR 5193):

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or Bureau of Investigation vehicles, as applicable.
- (b) Wearing Bureau of Investigation-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
- (e) Using an appropriate barrier device when providing CPR.

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### *Communicable Diseases*

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- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.
  - 1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
- (i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

All job classifications within the Bureau of Investigation do not have reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials (OPIM) that may result from the performance of an employee's duties. Employees are to avoid all contact with blood or OPIM. Proper Universal Precautions are to be taken in the unlikely event blood or OPIM is encountered occupationally.

#### 606.3.2 IMMUNIZATIONS

Employees who could be exposed to HBV due to their positions will be provided the HBV vaccine and any routine booster at no cost (8 CCR 5193), but they have the option to decline the vaccine.

All medical evaluations and procedures, including HBV vaccine, vaccinations, post-exposure evaluation, follow-up, and laboratory tests shall be provided without cost to the employee, at the County Wellness Center located at Arrowhead Regional Medical Center, under the supervision of a licensed physician or healthcare professional. All medical evaluations and procedures shall be in accordance with current recommendations of the U. S. Department of Health, Public Health Service, Centers for Disease Control.

HBV vaccinations shall be made available to employees after they have had the training outlined herein and within 10 working days of initial assignment. HBV vaccination shall be provided to all employees who have occupational exposure unless the employee has previously completed the HBV vaccination series, antibody testing has revealed the employee to be immune, or the vaccine is medically contraindicated.

Pre-screening shall not be a prerequisite for HBV vaccination.

Employees who decline the HBV vaccination shall sign the HBV Vaccine Declination statement.

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The Office shall make the HBV vaccination available to an employee even if the employee has previously declined it.

### **606.4 POST EXPOSURE**

#### **606.4.1 INITIAL POST-EXPOSURE STEPS**

Employees 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, and by the end of the work shift during which the exposure incident occurred.

All employees who have an exposure incident will be offered post-exposure evaluation and follow-up. All post-exposure follow-up must be performed from among the list of approved health care providers provided by the Department of Risk Management – Safety Division.

#### **606.4.2 REPORTING REQUIREMENTS**

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

- (a) Name and Social Security number of the employee 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 complete the Bloodborne Pathogen Exposure Incident Investigation Report. The supervisor completing the report shall ensure the healthcare professional responsible for evaluating an employee after an exposure incident is provided a copy of that report by having the exposed employee hand carry a single copy of the report to the healthcare professional.

The supervisor shall advise the employee 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

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requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

### 606.4.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Bureau of Investigation employees shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (8 CCR 5193).

### 606.4.4 COUNSELING

The Bureau of Investigation shall provide the employee, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

### 606.4.5 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 employee or when it is otherwise appropriate (8 CCR 5193).

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 employee 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 employee qualifies as a crime victim (Penal Code § 1524.1).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

Consent of the individual for testing should be requested, though consent is not required by law.

### **606.5 CONFIDENTIALITY OF REPORTS**

Medical information shall remain in confidential files and shall not be disclosed to anyone without the employee'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.



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### **606.6 EXPOSURE CONTROL PLAN REVIEW**

This Exposure Control Plan shall be reviewed annually and whenever necessary by the Office's Department Safety Officer (Chief of the Bureau of Administration) to reflect the items listed below.

Additional review will be provided by the County Safety Officer upon request.

1. To reflect new or modified tasks and procedures which affect occupational exposure.
2. To reflect changes in technology that eliminate or reduce exposure to bloodborne pathogens.
3. To document consideration and implementation of appropriate commercially available needleless systems and needle devices and sharps with engineered sharps injury protection (when applicable).
4. To include new or revised employee positions with occupational exposure.
5. To review and evaluate the exposure incidents which occurred since the previous update.
6. To review and respond to information indicating that the Exposure Control Plan (attached) is deficient in any area.

Work practice and engineering controls are reviewed and evaluated annually by employees impacted by the Bloodborne Pathogen Program and listed in the Exposure Determination section above. Information from the Sharps Injury Log, Bloodborne Pathogen Exposure Report, OSHA 300 Log and new sharps product (specimen collection and sharps containment) information are included in the review. Improvements to work practice and engineering controls are made based on the annual review process. Records of the review/evaluation are maintained by the Department Safety Officer.

### **606.7 METHODS OF COMPLIANCE**

1. General - Universal Precautions shall be observed to prevent contact with blood or other potentially infectious materials. All body fluids shall be considered potentially infectious materials, regardless of the status of the source individual.
2. Engineering and work practice controls shall be used to eliminate or minimize employee exposure. Where occupational exposure remains after institution of these controls, personal protective equipment (PPE) shall also be used.

#### **606.7.1 ENGINEERING CONTROLS**

##### **Sharps**

- (a) Contaminated needles and other contaminated sharps shall not be bent, recapped or removed except when a medical procedure requires it and there is no alternative. Shearing or breaking of contaminated needles is prohibited.
- (b) Personnel should not be involved with the use or handling of needles or sharps in a medical or laboratory setting, except for those so assigned. Employees may have contact with needles or sharps when searching persons or places and the safe

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retrieval and storage is the employee's responsibility. Searching persons shall be accomplished as described below.

1. Sharps retained as evidence, such as syringes, shall be stored in the needle storage tubes provided by the Office. When placing the object in the storage tube, the one-hand technique shall be employed.
2. Sharps for disposal shall be deposited in a sharps disposal container maintained at locations in laboratory and medical facilities, as appropriate, to ensure easy accessibility to personnel in the immediate area where sharps are used or can be reasonably anticipated. When placing the object in the disposal container, the one-hand technique shall be used.

Sharps containers shall be puncture resistant, leakproof on the sides and the bottom, and have "Biohazard" labels. Employees shall not reach by hand into a sharps container to retrieve any items therein.

### 606.7.2 WORK PRACTICE CONTROLS

#### Hand Washing Facilities

- (a) Hand washing facilities shall be provided which are readily accessible to employees, where feasible.
- (b) Where hand washing facilities are not feasible, antiseptic towelettes shall be used. Following the use of antiseptic towelettes, employees shall, as soon as feasible, wash hands with soap and water.
- (c) After the removal of gloves or PPE, employees shall wash their hands with soap and water as soon as practicable.
- (d) Employees shall wash hands and any other skin with soap and water and flush mucous membranes with water immediately or as soon as practicable following contact of such body areas with blood or OPIM.
- (e) Employees shall refrain from eating, drinking, smoking and/or applying cosmetics until hands have been washed with soap and water.

#### Food and Drink

- (a) Eating, drinking, smoking, applying cosmetics or lip balm, and handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.
- (b) Food and drink shall not be kept in refrigerators, freezers, shelves, cabinets or on countertops or bench tops where blood or other potentially infectious materials are present.

#### Medical/Laboratory Practice

- (a) All procedures involving blood or OPIM shall be performed in such a manner as to minimize splashing, spraying, spattering, and generation of droplets of these substances. Gloves shall be worn when processing blood and other specimens and protective eyewear/face shields should be worn when mucous membrane contact with blood is anticipated (i.e., removing tops from vacuum tubes).

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- (b) Mouth pipetting of blood or OPIM is prohibited.
- (c) Specimens of blood or OPIM shall be placed in a container that prevents leakage during collection, handling, processing, storage, transport or shipping.
  - 1. Container shall be labeled with the "Biohazard" label. Container shall be closed prior to storage, transport, or shipping. If outside contamination of the primary container occurs, it shall be placed within a secondary container that prevents leakage during collection, handling, processing, storage, transport or shipping.
  - 2. If the specimen could puncture the primary container (i.e., a syringe) it shall be placed within a sharps container that prevents leakage during storage, transport or shipping.
- (d) General Law Practice
  - 1. Great caution in searching clothing of prisoners shall be exercised. Individual discretion, based upon circumstances at hand, should determine if a prisoner should empty his/her own pockets or if the officer should use his/her own skills in determining the contents of a prisoner's clothing. Purses/backpacks should be searched by turning out the contents.
  - 2. Gloves should be worn whenever exposure to blood is likely. Thicker gloves provide more protection but less effectiveness in locating objects. Select the type and thickness of glove that will provide a balance of protection and search efficiency.
  - 3. When exposure to blood and latent fingerprints is likely, wearing cotton gloves over protective gloves will assist in protecting both the fingerprint evidence and the employee.
  - 4. Hidden areas, such as under car seats, should be searched using a flashlight and/or long-handled mirror.
  - 5. CPR/First Aid should be administered using protective masks/airways with one-way valves to prevent patient's blood, saliva, vomitus, or OPIM from entering caregiver's mouth.
  - 6. Deceased persons/body parts should be handled with gloves and appropriate PPE as described below.
  - 7. Work surfaces should be cleaned of visible materials and decontaminated with appropriate germicide after a spill of blood or OPIM and when work activities are completed.
  - 8. Onlookers at autopsies with an opportunity for exposure to blood splashes shall wear protective eyewear/masks/face shields, laboratory coats, and gloves.
- (e) Evidence Handling Practice
  - 1. Eye protection/face masks/shields shall be worn at crime scenes where there is potential for exposure via a splash to mucous membranes. Airborne particles may be generated when dried blood is scraped; eye protection/face masks/shields may be necessary.

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2. Remain alert for the presence of sharp objects, such as needles, knives, razors, broken glass and nails.
  3. Blood or urine containers transported to SBCSD's Scientific Investigations Division shall meet the requirements above. SID BA/UA kits are acceptable for this purpose.
  4. Syringes retained as evidence shall be placed in approved sharps containers, labeled with a Biohazard label.
  5. Evidence contaminated with blood or OPIM such as, but not limited to, Sexual Assault Kits, clothing, projectiles recovered from bodies, etc. shall be packaged as evidence (not in plastic bags), and shall have a Biohazard warning label.
  6. Evidence tape, not staples, shall be used to seal packages. Staples can tear gloves and produce cuts in subsequent handlers of the evidence.
- (f) Equipment
1. Equipment which may become contaminated with blood or OPIM shall be examined prior to servicing or shipping, and shall be decontaminated as necessary by the examining employee unless such decontamination is not feasible. Equipment includes firearms, handcuffs, vehicle interiors, work surfaces, floors, etc. Metal items, such as handcuffs, should not be decontaminated with a corrosive germicide such as hypochlorite (bleach) as it may hasten corrosion and impair the proper functioning of the equipment.
  2. A Biohazard label shall be attached to contaminated equipment stating which portion remains contaminated. See Housekeeping section below.
  3. This information shall be conveyed to ALL affected employees, service representatives, and/or manufacturers as appropriate prior to handling, servicing or shipping so that appropriate precautions may be taken.

### Personal Protective Equipment

#### Provision

- (a) When there is occupational exposure, the site supervisor shall provide without cost, appropriate personal protective equipment, such as, but not limited to: gloves, gowns, laboratory coats, face shield or masks/eye protection, mouthpieces, resuscitation bags, pocket masks and other ventilation devices.
- (b) PPE shall be considered appropriate if it does not permit blood or OPIM to pass through or reach the employee's work clothes, street clothes, undergarments, skin, eyes, mouth, and/or other mucous membranes under normal conditions of use and for the duration of time during which it is used.

#### Use

- (a) Appropriate PPE shall be used at all times.
- (b) An employee may temporarily and briefly decline to use PPE when, under rare and extraordinary circumstances, in the employee's professional judgment, in the specific

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instance its use would have prevented the delivery of health care or public safety services or would have posed an increased hazard to the safety of the employee.

- (c) In such an instance, the supervisor shall be notified and the circumstances investigated and documented in order to determine whether changes can be instituted to prevent such future occurrences. Such investigation shall incorporate the use of the Bloodborne Pathogen Exposure Incident Report.

### Accessibility

The Commander managing equipment shall ensure that appropriate PPE is readily accessible/issued to employees.

- (a) Cleaning of reusable PPE shall be provided without cost to employee.
- (b) Repair/Replacement of PPE shall be provided without cost to an employee.

### Removal/Disposal

#### (a) Garments

1. Garment(s) penetrated by blood or OPIM shall be removed immediately or as soon as feasible. Uniforms and garments may be laundered/cleaned normally.
2. All PPE shall be removed prior to leaving the work area.
3. PPE shall be placed in an appropriately designated area or container for storage, washing, decontamination or disposal. Generally, contaminated PPE will be packaged in a Biohazard labeled bag for disposal in the designated Biohazard waste container at a SBCSD facility.

#### (b) Gloves

1. Gloves shall be worn when it can be reasonably anticipated that an employee may have hand contact with blood, OPIM, mucous membranes, non-intact skin, when performing vascular access procedures and when handling or touching contaminated items or surfaces.
2. Single use gloves shall be replaced as soon as practical when contaminated or as soon as feasible if torn, punctured or when their ability to function as a barrier is compromised. They shall not be washed or decontaminated for reuse.
3. Utility (reusable) gloves may be decontaminated for use if the integrity of the glove to function as a barrier is not compromised (i.e., it is not cracked, peeled, torn, or punctured, or exhibits other signs of deterioration). Utility gloves believed to be compromised shall be disposed of in the manner described above.
4. Hypoallergenic gloves, glove liners, powderless gloves, and other similar alternatives shall be accessible to those employees who are allergic to gloves otherwise provided.

#### (c) Masks/Eye Protection/Face Shields

1. Masks used in combination with eye protection devices such as goggles or glasses with side shields or chin-length face shields shall be worn whenever splashes, spray, spatter, or droplets of blood or OPIM may be generated and

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eye, nose, or mouth contamination can be reasonably anticipated, such as medical procedures in which aspirated blood may be present, or at autopsies.

(d) Gowns/Aprons/Other Protective Body Clothing

1. Appropriate clothing such as, but not limited to, gowns, aprons, lab coats, clinic jackets, or similar outer garments shall be worn in occupational exposure situations, such as medical procedures in which aspirated blood may be present, or at autopsies; the type and characteristics depending upon the task and degree of exposure anticipated.
2. Surgical caps or hoods and/or shoe covers or boots shall be worn whenever gross contamination can be reasonably anticipated, such as autopsies.

### Housekeeping

General - Supervising Investigators shall ensure that worksites are maintained in a clean and sanitary condition. Individual divisions shall determine and implement an appropriate written schedule for cleaning and method of decontamination based upon location within the facility, type of surface to be cleaned, type of soil present, and tasks or procedures being performed in the area.

Equipment/Surfaces shall be cleaned and decontaminated after contact with blood or OPIM.

- (a) Contaminated work surfaces shall be decontaminated with an EPA registered disinfectant after completion of procedures; immediately or as soon as feasible when surfaces are overtly contaminated or after any spill of blood or OPIM; at the end of the work shift since the surface may have become contaminated since the last cleaning. The EPA registered disinfectant shall be used in accordance with packaging instructions. No other "home remedy" type cleaning solutions shall be used for disinfecting purposes within any Office facility.
- (b) Coverings, such as plastic wrap, aluminum foil, or imperviously backed absorbent paper used to cover equipment and environmental surfaces, shall be removed and replaced as soon as feasible when they become overtly contaminated or at the end of the shift in which they may have become contaminated since the last cleaning.
- (c) Receptacles such as bins, pails, cans, etc. intended for reuse which have a reasonable likelihood for becoming contaminated with blood or OPIM shall be inspected and decontaminated on a regularly scheduled basis and cleaned and decontaminated immediately or as soon as feasible upon visible contamination.
- (d) Broken glassware which may be contaminated shall not be picked up directly with the hands. It shall be cleaned up using mechanical means, such as a brush and dustpan, tongs, or forceps.
- (e) Reusable sharps that are contaminated with blood or OPIM shall not be stored or processed in a manner that requires employees to reach by hand into a container where these sharps have been placed.

### Waste

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- (a) Contaminated sharps shall be discarded immediately or as soon as feasible in containers designated above for this purpose.
  - 1. Sharps containers shall be maintained upright throughout use.
  - 2. Shall be disposed of and replaced when 3/4 full.
  - 3. Sharps containers for removal or disposal shall be closed prior to removal or replacement to prevent spillage or protrusion of contents during handling, storage, transport, or shipping. The sharps container shall be placed in a secondary container if leakage is possible.
  - 4. Other regulated waste shall be placed in closable, leak proof, biohazard labeled containers which are closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping. The regulated waste container shall be placed in a secondary container if leakage is possible.
  - 5. Biohazardous material may be disposed of by placing it in biohazard containers located at area hospitals, WVDC, GHRC, CDC or SID.

#### Laundry

- (a) Laundry shall be handled using Universal Precautions.
- (b) Contaminated laundry should be handled as little as possible, and with minimum agitation.
- (c) Contaminated laundry shall be bagged or containerized at the use location and not sorted or rinsed there.
- (d) Containerized laundry shall be placed and transported in biohazard labeled containers. When a facility uses Universal Precautions in the handling of all soiled laundry, labeling is sufficient if it permits all employees to recognize the containers as requiring compliance with Universal Precautions.
- (e) Whenever contaminated laundry is wet and presents a reasonable likelihood of soak-through or of leakage from the bag or container, the laundry shall be placed and transported in containers to prevent such leakage or soak through.
- (f) When a facility ships contaminated laundry off-site to a second facility which does not use Universal Precautions in the handling of laundry, the generating facility must place such laundry in Biohazard labeled containers.

#### **606.8 HAZARD COMMUNICATION TO EMPLOYEES**

Supervisors shall ensure that labels and signs are affixed to:

- (a) Containers of regulated waste.
- (b) Refrigerators and freezers containing blood or OPIM.
- (c) Containers used to store, transport, or ship blood or OPIM except as provided below.
- (d) Contaminated equipment (shall also state the portions of the equipment contaminated).

The label shall:

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- (a) Include either the Biohazard symbol or the legend "Biohazardous Waste".
- (b) Be fluorescent orange or orange#red or predominantly so, with lettering and symbols in contrasting color.

Red bags or containers may be substituted for labels (see above) for sharps containers or regulated waste bags. Regulated waste bags shall be color coded red.

Blood, blood components, or blood products so labeled and released for transfusion are exempt from the above.

Individual containers of blood or OPIM placed in a labeled container for storage, transport, shipment, or disposal are exempt.

### **606.9 TRAINING**

All employees 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 employee 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.
- (d) Annually thereafter within one year of previous training.
- (e) When changes such as modification of tasks or procedures or institution of new tasks or procedures affects the employee's occupational exposure. Additional training may be limited to addressing new exposures.

Training is to include the following, at a minimum:

- (a) Accessible copy of text of standards and explanation of contents.
- (b) General explanation of epidemiology and symptoms of bloodborne diseases.
- (c) Modes of transmission.
- (d) Explanation of plans for exposure control.
- (e) Methods of recognizing tasks with potential exposure.
- (f) Explanation of the uses and limitations of methods to reduce exposure, including engineering controls, work practices and PPE. Information on the types, uses, location, removal, handling, and disposal of PPE.
- (g) Explanation of the basis of selection of appropriate PPE.
- (h) Information on the availability and cost of HBV vaccination.
- (i) Appropriate emergency actions.
- (j) Exposure Incident procedure.



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- (k) Post-exposure evaluation and follow-up information.
- (l) Information on appearance and meaning of Biohazard label.
- (m) Opportunities for questions and answers.

### **606.10 RECORD KEEPING**

#### Medical Records

- (a) Medical records shall be established for each employee with occupational exposure. The records are to be maintained by the County Safety Officer, and shall include:
  - 1. Name of employee.
  - 2. Social Security number.
  - 3. Copy of employee's HBV vaccination status, including dates of all HBV vaccinations.
  - 4. Medical records relative to the employee's testing and follow-up procedures as required above.
  - 5. Copy of all test results of examinations, medical testing, and follow-up procedures as required above.
  - 6. Employer's copy of healthcare professional's written opinion.
  - 7. Copy of information provided to the healthcare professional as required above.
- (b) Confidentiality of the above medical records shall be maintained and shall NOT be disclosed or reported without the employee's written express consent within or outside the workplace, except as provided by the County Bloodborne Pathogens Program.
- (c) Medical records established under this program shall be maintained for the duration of employee's employment plus 30 years.

Training records shall be maintained by the Bureau of Investigation's Administrative Division for five years from the date of training. Such records shall include:

- (a) Dates of training sessions.
- (b) Contents or summary of training.
- (c) Name(s) and qualifications of person(s) conducting the training.
- (d) Names and job titles of all persons attending the training session.

#### Availability

- (a) Medical and Training Records shall be available upon request to Cal#OSHA and NIOSH for examination and copying.
- (b) Medical records shall be provided upon request for examination and copying to the subject employee, and to anyone having written consent of the subject employee.
- (c) Training records shall be provided upon request for examination and copying to the employee, and to anyone having written consent of the subject employee.

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### Document Control

- (a) The Master Copy of the Bloodborne Pathogens Exposure Control Plan (attached) shall be maintained by the Department Safety Officer.
- (b) A copy of this Bloodborne Pathogens Exposure Control Plan (attached) shall be maintained by each Division in a location accessible to employees.
- (c) The Department Safety Officer, in cooperation with the County Safety Officer, is responsible for annually reviewing this program and its effectiveness, and for upgrading this program as needed.
- (d) All forms related to this program can be found at [http://countyline/hr/riskmanagement/bloodborne\\_pathogens.htm](http://countyline/hr/riskmanagement/bloodborne_pathogens.htm) or by contacting the Department of Risk Management's Safety Division.

See attachment: [Code of Safe Work Practices-Medical Facilities-Acknowledgement.pdf](#)



## Smoking and Tobacco Use

### 607.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by employees and visitors while on-duty or while in San Bernardino County District Attorney's Bureau of Investigation facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

### 607.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation 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 District Attorney's Office and its employees. Therefore, smoking and tobacco use is prohibited by employees and visitors in all Office facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5).

### 607.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by employees is prohibited any time employees are in public view while actively performing work functions on behalf of and while representing the San Bernardino County District Attorney's Bureau of Investigation.

It shall be the responsibility of each employee to ensure that no person under his/her supervision smokes or uses any tobacco product inside County facilities and vehicles.

### 607.4 ADDITIONAL PROHIBITIONS

Smoking is never permitted in county vehicles. Smoking and use of tobacco shall only occur during authorized breaks. Employees using these products are not entitled to additional breaks during work hours.

# Personnel Complaints and Administrative Investigations

## 608.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of employees of the San Bernardino County District Attorney's Bureau of Investigation. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to a criminal investigation.

## 608.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation takes seriously all complaints regarding the service provided by the Bureau of Investigation and the conduct of its employees.

The Bureau of Investigation will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law and county rules and the requirements of any collective bargaining agreements (MOUs).

It is also the policy of the Bureau of Investigation to ensure that the community can report misconduct without concern for reprisal or retaliation.

## 608.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of Bureau of Investigation 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 of Investigation 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 of Investigation.

### 608.3.1 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 of Investigation employee 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.

## *Personnel Complaints and Administrative Investigations*

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- (e) Tort claims and lawsuits may generate a personnel complaint.

### **608.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS**

#### **608.4.1 COMPLAINT FORMS**

A Citizen's Complaint form will be provided when requested by a member of the public. The complaint forms shall be readily available at each District Attorney's Office facility open to the public. Refer to the Citizen's Complaint form located on STARnet.

#### **608.4.2 ACCEPTANCE**

All complaints will be courteously accepted by any Supervising Investigator, Commander, Assistant Chief Investigator or the Chief Investigator. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone when necessary.

Although not required, complainants should be encouraged to file complaints in person and in writing at a District Attorney's Office location so that proper identification, signatures, photographs or physical evidence may be obtained as necessary. Obtaining a written complaint may require that the assigned Supervising Investigator respond to the location where the complainant may be contacted and interviewed.

When a Supervising Investigator meets with a complainant who requests a complaint form, the form shall be explained to the complainant.

A complainant shall be provided with a copy of his/her written statement at the time it is filed with the Bureau of Investigation (Penal Code § 832.7).

When a complaint is received by letter, the Supervising Investigator shall contact the complainant either telephonically, in person, or by return letter in order to properly document the complaint.

Once the complaint form is completed and received, it shall be forwarded to the Assistant Chief Investigator for review and then forwarded to the Chief Investigator. The Chief Investigator or designee will then assign the complaint for investigation. If the complaint is one which by its very nature requires that an investigation be immediately initiated and the Chief Investigator is not available, the Assistant Chief Investigator shall be responsible for initiating the investigation.

#### **608.4.3 AVAILABILITY OF WRITTEN PROCEDURES**

The Bureau of Investigation shall make available to the public, upon request, a written description of the investigation procedures for complaints (Penal Code § 832.5).

### **608.5 DOCUMENTATION**

Supervising Investigators shall ensure that all formal complaints from citizens are documented on a Citizen's Complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

A completed Citizen's Complaint form is not required for internal complaints. The Supervising Investigator may receive an internal complaint verbally or in written form (including the Citizen's Complaint form).

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### **608.6 ADMINISTRATIVE INVESTIGATIONS**

Allegations of misconduct will be administratively investigated as mentioned in the subsections below. At the direction of the Chief Investigator or designee, with the concurrence of the District Attorney or designee, such investigations may also be conducted on Office employees and volunteers who are not part of the Bureau of Investigation.

At the request of an outside law enforcement agency, with the concurrence of the District Attorney or designee and the Chief Investigator or designee, an administrative investigation of an employee of that agency may be conducted. During such an investigation, the policy and procedures manual for the requesting agency will provide the standards for that employee's conduct and guidance for the investigation.

#### **608.6.1 SUPERVISING INVESTIGATOR RESPONSIBILITIES**

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the Supervising Investigator assigned to conduct the investigation.

A Supervising Investigator who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of Supervising Investigators include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint from a citizen, a Citizen's Complaint form is completed.
  - (a) The complaint will be directed to the Assistant Chief Investigator, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
  - (b) In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a Supervising Investigator shall orally report the matter to the Assistant Chief Investigator or the Chief Investigator, who will initiate appropriate action.
- (b) Responding to all complainants in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
  - (a) Initial follow-up contact with the complainant should be made within one business day of the Bureau of Investigation receiving the complaint.
  - (b) If the matter is resolved and no further action is required, the Supervising Investigator will note the resolution on a complaint form and forward the form to the Assistant Chief Investigator (or advise the Assistant Chief Investigator in some other manner if a complaint form was not completed).
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Assistant Chief Investigator and the Chief Investigator are notified via the chain of command as soon as practicable.

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- (e) Promptly contacting Assistant Chief Investigator for direction regarding the roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Assistant Chief Investigator, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the employee's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
  - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
  - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the established procedural rights of the accused employee's classification (sworn versus non-sworn) are followed.
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

### 608.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a Supervising Investigator or an assigned investigator, the following applies to investigators because they are covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

- (a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the employee is on-duty. If the employee is off-duty, he/she shall be compensated.
- (b) Unless waived by the employee, interviews of an accused employee shall be at the headquarters of the District Attorney's Office (303 W. 3rd St, San Bernardino, CA 92415) or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused employee.
- (d) Prior to any interview, an employee shall be informed of the nature of the investigation, the name, rank and command of the investigator in charge of the investigation, the interviewing officers and all other persons to be present during the interview.
- (e) All interviews shall be for a reasonable period and the employee's personal needs should be accommodated.
- (f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.

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- (a) An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
- (b) No information or evidence administratively coerced from an employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview.
- (i) All employees 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 employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All employees shall provide complete and truthful responses to questions posed during interviews.
- (k) No employee may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any investigator solely because the investigator has been placed on a prosecutor's *Brady* list or the name of the investigator may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the investigator has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

Administrative investigations of professional staff shall be in accordance with relevant MOU language and county personnel rules.

### 608.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

**Administrative Investigation Assignment** - this page contains the follow subsections:

- Employee
- Nature of Investigation
- Assigned to



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- Assigned by
- Date Assigned
- Date Completed
- Disposition

### **Investigative Report - (Narrative)**

- Assignment
- Background
- Investigation (summary of interviews and other appropriate subsections)
- Additional Information (for listing items attached to the report)
- Summary (for summarizing violations, and how the employee committed the violations)

### 608.6.4 FINDINGS

Each personnel complaint shall be classified with one of the following findings:

**Unfounded** - When the investigation discloses that the alleged acts did not occur or did not involve Bureau of Investigation employees. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If the complaint is sustained, the Chief Investigator can impose one or more of the following actions:

- (a) Counseling
- (b) Training
- (c) Written Reprimand
- (d) Suspension
- (e) Relinquishment of Certain Accrued Time Off
- (f) Reduction in Pay
- (g) Demotion
- (h) Dismissal

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The employee will be informed in writing, by the Chief Investigator, of the final finding(s). The employee will be informed of all avenues of appeal, should the employee disagree with the final finding(s).

### **608.6.5 COMPLETION OF INVESTIGATIONS**

Every investigator or Supervising Investigator 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 Supervising Investigator shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

### **608.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS**

The employee conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

## **608.7 ADMINISTRATIVE SEARCHES**

Lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place (Government Code § 3309).

### **608.7.1 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

## **608.8 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 of Investigation, 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 of Investigation badge, identification, assigned weapons and any other Bureau of Investigation equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a Supervising Investigator.
- (c) May be temporarily reassigned to a different unit during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

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- (d) May be prevented from entering any District Attorney's Office facility and be assigned to his/her residence.

### **608.9 CRIMINAL INVESTIGATION**

Where an employee is accused of potential criminal conduct, a separate Supervising Investigator 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 an employee is accused of criminal conduct. The Chief Investigator may request a criminal investigation by an outside law enforcement agency.

The employee should not be administratively ordered to provide any information in the criminal investigation.

The San Bernardino County District Attorney's Bureau of Investigation may release information concerning the arrest or detention of any employee, including an investigator that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

### **608.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES**

Upon completion of a formal investigation, an investigation report will be forwarded to the Chief Investigator through the chain of command.

#### **608.10.1 ASSISTANT CHIEF INVESTIGATOR RESPONSIBILITIES**

Upon receipt of any completed personnel investigation, the Assistant Chief Investigator shall review the entire investigative file, the employee's personnel file and any other relevant materials.

The Assistant Chief Investigator may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief Investigator, the Assistant Chief Investigator may return the entire investigation to the assigned investigator or Supervising Investigator for further investigation or action.

When forwarding any written recommendation to the Chief Investigator, the Assistant Chief Investigator shall include all relevant materials supporting the recommendation. Actual copies of an employee's existing personnel file need not be provided and may be incorporated by reference.

#### **608.10.2 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 Assistant Chief Investigator for further investigation or action.

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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 employee 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 employee with the following in accordance with the relevant MOU and county personnel rules:

- (a) Access to all of the materials considered by the Chief Investigator in recommending the proposed discipline, with the exception of those deemed by the Chief Investigator to be confidential.
- (b) 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 employee, the Chief Investigator may grant a reasonable extension of time for the employee to respond.
  - 2. If the employee elects to respond orally, the presentation may be recorded by the Bureau of Investigation. Upon request, the employee shall be provided with a copy of the recording.

NOTE: 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.

Once the employee has completed his/her response or if the employee has elected to waive any such response, the Chief Investigator shall consider all information received in regard to the recommended discipline. The Chief Investigator shall render a timely written decision to the employee and specify the grounds and reasons for discipline and the effective date of the

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discipline. Once the Chief Investigator has issued a written decision, the discipline shall become effective.

### **608.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT**

The Chief Investigator or the authorized designee shall ensure that the complainant is notified of the disposition of the complaint (Penal Code § 832.7(f)).

### **608.10.4 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)). The disposition of an internal complaint shall be released to the complaining party in a timely manner. This release shall not include what discipline, if any, was imposed.

### **608.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that an employee tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The Chief Investigator or designee should contact a Human Resources Officer and refer to county personnel rules for guidance.

### **608.13 POST-DISCIPLINE APPEAL RIGHTS**

Non-probationary employees have the right to appeal discipline using the procedures established in the relevant current MOU and/or county personnel rules.

In the event of punitive action against an investigator, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5. Punitive action against a professional staff member shall follow the relevant MOU and/or county personnel rules.

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).

### **608.14 PROBATIONARY EMPLOYEES**

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).

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.

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### **608.15 RETENTION OF PERSONNEL INVESTIGATION FILES**

All personnel complaints shall be maintained for five years pursuant to Penal Code § 832.5. Copies of sustained complaints and dispositions will be placed in the employee's personnel file and shall be retained in accordance with current laws and regulations. Complaints resulting in dispositions of unfounded, exonerated, not sustained, or no finding, shall be filed in the internal affairs files. At the conclusion of the five-year period, the complaint, investigation and disposition shall be purged from the personnel and internal affairs files and destroyed unless substantially similar conduct has occurred again during the initial five-year period. If the Chief Investigator or designee determines that substantially similar conduct occurred again during the initial five-year period, the personnel complaint, investigation, and disposition regarding the incident will be maintained. Substantially similar conduct is defined as conduct that a reasonable person would conclude is substantially similar in nature. The employee will be given written notice that the complaint, investigation and disposition are being maintained in their file.

All investigations and reports shall be deemed confidential for purposes of avoiding release of information on personnel matters to unauthorized persons. Employees shall be permitted to review their personnel file at any time by contacting their immediate supervisor.

## Seat Belts

### 609.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all employees operating or riding in Bureau of Investigation vehicles (Vehicle Code § 27315.5).

#### 609.1.1 DEFINITIONS

Definitions related to this policy include:

**Child restraint system** - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

### 609.2 POLICY

It is the policy of the San Bernardino County District Attorney's Bureau of Investigation that employees use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

### 609.3 WEARING OF SAFETY RESTRAINTS

All employees shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any vehicle owned, leased or rented by this Bureau of Investigation while on- or off-duty, or in any privately owned vehicle while on-duty. The employee driving such a vehicle shall ensure that all other occupants, including non-employees, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the employee or the public. Employees must be prepared to justify any deviation from this requirement.

### 609.4 TRANSPORTING CHILDREN

Children under the age of 8 shall be transported in compliance with California's child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, employees should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

### *Seat Belts*

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#### **609.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES**

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any Bureau of Investigation vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

#### **609.6 INOPERABLE SEAT BELTS**

Bureau of Investigation vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Bureau of Investigation vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief Investigator.

Employees who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

#### **609.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS**

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

#### **609.8 VEHICLE AIRBAGS**

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.



## Body Armor

### 610.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

### 610.2 POLICY

It is the policy of the San Bernardino County District Attorney's Bureau of Investigation to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

### 610.3 ISSUANCE OF BODY ARMOR

The Bureau of Investigation shall ensure that body armor is issued to all investigators when the investigator begins service at the San Bernardino County District Attorney's Bureau of Investigation and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Bureau of Investigation 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.

#### 610.3.1 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

- (a) Investigators shall only wear agency-approved body armor.
- (b) Investigators shall wear body armor any time they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Investigators may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
- (d) Body armor shall be worn when an investigator is taking part in Bureau of Investigation range training.
- (e) An investigator may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

#### 610.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

## *Body Armor*

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### 610.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

### 610.3.4 PHYSICAL APPEARANCE OF BODY ARMOR

The back of the Office-issued vest shall have the words "POLICE" in three-inch high gold-colored block lettering with the words "D.A. INVESTIGATOR" in one-inch gold-colored block lettering directly beneath the "POLICE" lettering. The front of the vest shall have an Office-issued District Attorney cloth badge stitched to the upper left breast. The front right breast of the vest shall also have the words "POLICE" in one and one-half-inch high gold-colored block lettering with the words "D.A. INVESTIGATOR" in half-inch gold-colored block lettering directly beneath the "POLICE" lettering. Office-issued tactical covers with permanently affixed pockets or Office-issued tactical covers with molle straps are approved for use. Investigators are authorized to purchase and affix a sturdy, high-quality black nylon handcuff, radio, magazine, flashlight and/or a utility pocket on the molle. Pouches affixed to the molle are required to have Velcro or snap closures. Nylon or hard plastic clips on pouches affixed to the vest are prohibited. Investigators are prohibited from affixing a holster to the vest's molle.

## **610.4 RANGEMASTER RESPONSIBILITIES**

The Rangemaster should:

- (a) Monitor technological advances in the body armor industry for any appropriate changes to Bureau of Investigation approved body armor.
- (b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
- (c) Provide training that educates investigators about the safety benefits of wearing body armor.

## Personnel Records

### 611.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual employee's name.

### 611.2 POLICY

It is the policy of the Bureau of Investigation to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7). Throughout this policy, portions of the law are summarized. In the event of a conflict between this policy and the CPRA or any relevant law, such law shall take precedence.

### 611.3 ADMINISTRATIVE PERSONNEL FILE

The Administrative Personnel File shall be maintained by the office of the Chief Investigator as a record of a person's employment/appointment with the Bureau of Investigation. The Administrative Personnel File should contain, at a minimum:

- (a) Personal data, including a photograph of the employee, marital status, names of family members, educational and employment history or similar information. The photograph of the employee should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports or memorandums reflecting assignments, promotions and other changes in employment/appointment status. These should be permanently retained.
- (d) Original work performance evaluations (WPE). These should be permanently maintained.
- (e) Discipline records, including copies of sustained personnel complaints.
  - 1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained for a minimum of one year and pursuant to the established County records retention schedule.
  - 2. Disciplinary action resulting from a sustained citizen's complaint shall be maintained pursuant to the established records retention schedule and for at least five years after disposition.
- (f) Adverse comments such as supervisor notes or memos may be retained in the administrative personnel file after the employee has had the opportunity to read and initial the comment (Government Code § 3305).
  - 1. Once an employee has had an opportunity to read and initial any adverse comment, the employee shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).
  - 2. Any employee response shall be attached to and retained with the original adverse comment (Government Code § 3306).

# San Bernardino County District Attorney's Bureau of Investigation

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## *Personnel Records*

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3. If an employee 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 employee 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 employee's file (Government Code § 3305).
- (g) Commendations and awards.
- (h) Copies of college degrees, diplomas and other evidence of higher education. Employees shall also provide a copy to their immediate supervisor for the Unit Personnel File and to the Commander over training or designee for placement in their Training File.
- (i) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

When a citizen's or internal complaint is sustained, the original, signed Internal Affairs Disposition form shall be maintained in the employee's Administrative Personnel File. The entire investigation file will be maintained in the Internal Investigative File.

Records and data kept by the Bureau of Investigation for administrative purposes are the property of the District Attorney's Office and are not to be accessed, reproduced or provided to any other person, employee, agency, entity or authority without notification and permission of the Chief Investigator or designee. With the exception of supervisors maintaining annual evaluation information for their assigned employees, no employees shall keep records or data concerning the activities of any other employee for any purpose unless authorized to do so in the proper discharge of their duties.

### **611.4 UNIT PERSONNEL FILE**

Unit Personnel Files may be separately maintained internally by an employee's supervisor for the purpose of completing timely performance evaluations. The Unit Personnel 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 work performance evaluations (WPE).

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.

### **611.5 EMPLOYEE, FAMILY, EMERGENCY INFORMATION FORM**

The Employee, Family, Emergency Information form is designed to assist with locating employees and the relatives of employees in the event of an emergency situation. This form contains optional information that can assist in locating the employee or the employee's relative(s). However, some information is required. The following information must be provided by each employee on this form:

- (a) Physical and mailing address(es) and personal phone number.
- (b) Name of spouse/significant other, registered domestic partner or party with familial duty to be contacted in event of an emergency.

## *Personnel Records*

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- (c) The home address, home phone number, business name, and business address and phone number for the spouse/significant other, registered domestic partner or party with familial duty to be contacted in event of an emergency.

All employees shall file a new Employee, Family, Emergency Information form with their respective supervisor upon a change in any of the mandatory information. When a supervisor completes an annual Work Performance Evaluation (WPE) for an employee, the supervisor shall ensure the form is up to date. When an employee completes the form, the supervisor will maintain a copy of the form in the Unit Personnel File and forward a copy to the Chief Investigator's secretary for placement in the employee's Administrative Personnel File.

### **611.6 TRAINING FILE**

An individual Training File shall be maintained by the Commander over training or designee for each employee. Training Files will contain records of all training; original or copies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be stored electronically as part of the Bureau of Investigation's training management system and may be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved employee is responsible for providing the Commander over training or designee, and immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Commander over training or designee shall ensure that copies of such training records are placed in the employee's Training File.

### **611.7 INTERNAL INVESTIGATIVE FILE**

Internal Investigative Files shall be maintained under the exclusive control of the Assistant Chief Investigator in conjunction with the office of the Chief Investigator, and filed by the internal investigation case number. Access to these files may only be approved by the Chief Investigator or the Assistant Chief Investigator.

These files shall contain the complete investigation of all formal complaints of employee misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the employee's file but will be maintained in the Internal Investigative File:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

Investigation files arising out of citizen's complaints shall be maintained pursuant to the established records retention schedule and for a period of at least five years. Investigations that resulted in other than a sustained finding may not be used by the Bureau of Investigation to adversely affect an employee's career (Penal Code § 832.5).

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Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least two years (Government Code § 26202; Government Code § 34090).

#### **611.8 MEDICAL FILE**

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the employee'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 an employee's medical condition.
- (e) Any other documents or materials that reveal the employee's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

#### **611.9 SECURITY**

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the Chief Executive Officer, County Counsel or other attorneys or representatives of the County in connection with official business.

##### **611.9.1 REQUESTS FOR DISCLOSURE**

Any employee receiving a request for a personnel record shall promptly notify the Assistant Chief Investigator or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected employee 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 from the County's Department of Human Resources or available legal counsel.

All requests for disclosure that result in access to an employee's personnel records shall be logged in the corresponding file.

## *Personnel Records*

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### 611.9.2 RELEASE OF PERSONNEL INFORMATION

Personnel records are confidential and 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 employee of the Bureau of Investigation may be guilty of a misdemeanor (Penal Code § 146e).

The Bureau of Investigation may release any factual information concerning a disciplinary investigation if the employee who is the subject of the investigation (or the employee's representative) publicly makes a statement that is published in the media and that the employee (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).

### **611.10 EMPLOYEE ACCESS TO HIS/HER OWN PERSONNEL RECORDS**

Any employee may request access to his/her own personnel records during the normal business hours. The request shall be made to the employee's immediate supervisor. The supervisor will then notify the Assistant Chief Investigator so that access may be granted as soon as is reasonable. Any employee seeking the removal of any item from his/her personnel records shall file a written request to the Chief Investigator through the chain of command. The Bureau of Investigation shall remove any such item if appropriate, or within 30 days provide the employee with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the employee's request and the written response from the Bureau of Investigation shall be retained with the contested item in the employee's corresponding personnel record (Government Code § 3306.5). All persons reviewing a personnel file will sign an acknowledgement sheet stating they reviewed and/or obtained a copy of material contained in the file.

Employees 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 employee of the intent to discipline.
- (b) Confidential portions of Internal Investigative Files that have not been sustained against the employee.
- (c) Criminal investigations involving the employee.
- (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the employee.
- (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 of Investigation 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 Bureau of Investigation planning purposes.

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- (g) Information of a personal nature about a person other than the employee if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.

### **611.11 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 employee's work performance evaluation (WPE), 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 employee's WPE 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.

### **611.12 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 California Public Records Act (Government Code § 6250 *et seq.*) and subject to redaction and delayed release as provided by law. When the Bureau of Investigation receives a personnel records request, the Bureau of Investigation shall immediately notify any investigators named in that request. The Bureau of Investigation shall promptly forward a copy of any correspondence between the Bureau of Investigation and the requestor to the subject investigator whose personnel records are requested. The Bureau of Investigation shall cooperate with the investigator regarding requests for the status of Bureau of Investigation efforts to review the investigator's personnel records for disclosure.

The Assistant Chief Investigator should work with the Chief Investigator, the Appellate Unit and County Counsel in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(2)):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.



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- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an investigator in connection with an incident, or whether the investigator's action was consistent with law and Bureau of Investigation policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(7) or other law, the following records shall be made available for public inspection upon request (Penal Code § 832.7):

- (a) Records relating to the report, investigation, or findings of:
  1. The discharge of a firearm at another person by an investigator.
  2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by an investigator.
- (b) Records relating to an incident where a sustained finding (see the Personnel Complaints and Administrative Investigations Policy) was made by the Bureau of Investigation or oversight agency regarding:
  1. An investigator engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
  2. Dishonesty of an investigator relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another investigator, including but not limited to any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(3)).

When an investigation involves multiple investigators, the Bureau of Investigation shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an investigator unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(4) against the investigator. However, factual information about the action of the investigator during an incident or the statements of an investigator shall be released if the statements are relevant to a sustained finding of the qualified allegation against another investigator that is subject to release (Penal Code § 832.7(b)(4)).

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### 611.12.1 REDACTION

The Assistant Chief Investigator, in consultation with the Chief Investigator, the Appellate Unit and County Counsel shall redact the following portions of records made available for release (Penal Code § 832.7(b)(5)):

- (a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of investigators
- (b) Information that would compromise the anonymity of complainants and witnesses
- (c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force
- (d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the investigator or another person

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(6)).

### 611.12.2 DELAY OF RELEASE

Unless otherwise directed by the Chief Investigator, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury due to any of the following conditions (Penal Code § 832.7):

- (a) Active criminal investigations
  1. Disclosure may be delayed 60 days from the date the use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.
  2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an investigator or against someone other than an investigator who used the force.
- (b) Filed criminal charges
  1. When charges are filed related to an incident where force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.
- (c) Administrative investigations
  1. Disclosure may be delayed until whichever occurs later:
    - (a) There is a determination from the investigation whether the use of force violated law or Bureau of Investigation policy, but no longer than 180 days

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after the date of the Bureau of Investigation's discovery of the use of force or allegation of use of force

- (b) Thirty days after the close of any criminal investigation related to the investigator's use of force

### 611.12.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury during an active criminal investigation, the Assistant Chief Investigator should work with the Chief Investigator, the Appellate Unit and County Counsel to provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

- (a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.
- (b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.
  - 1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:
    - (a) When the criminal proceeding is against someone other than an investigator and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Bureau of Investigation must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about use of serious force by investigators.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, the Bureau of Investigation may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(7)).

## Request for Change of Assignment

### 612.1 PURPOSE AND SCOPE

It is the intent of the Bureau of Investigation that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made. Such requests are subject to County Personnel Rules, including Rule 9, and any applicable MOU provisions.

### 612.2 REQUEST FOR CHANGE OF ASSIGNMENT

Personnel wanting a change of assignment are to submit a memorandum to the Chief Investigator via the chain of command. The employee should state the assignment(s) of interest, and why he/she believes the change would be beneficial to him/her AND to the Bureau of Investigation. The employee should also list relevant experience, education and training.

### 612.3 SUPERVISOR'S COMMENTARY

The employee's immediate supervisor should provide input when forwarding the request to his/her Commander.

### 612.4 APPROVAL OF REQUESTS

All requests for change of assignment will be considered equally while taking into consideration the needs of the requesting employee(s). Ultimately, the Chief Investigator has the right to make assignments, including transfers, for the betterment of the Bureau of Investigation.

## Commendations

### 613.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable acts of employees of the San Bernardino County District Attorney's Bureau of Investigation.

### 613.2 POLICY

It is the policy of the San Bernardino County District Attorney's Bureau of Investigation to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its employees through commendations.

### 613.3 COMMENDATIONS

Commendations for employees of the Bureau of Investigation may be initiated by any employee or by any person from the community. Employees are not to solicit or suggest to anyone that a commendation letter be written for their own benefit or enhancement.

### 613.4 CRITERIA

A commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond typical duties.

#### 613.4.1 BUREAU OF INVESTIGATION EMPLOYEE DOCUMENTATION

Employees of the Bureau of Investigation should document commendable acts in an interoffice memorandum. The documentation should contain:

- (a) The employee's name and assignment the date and time of the commendable act
- (b) A brief account of the commendable act with report numbers, as appropriate.
- (c) The signature of the employee submitting the documentation.

#### 613.4.2 BUREAU OF INVESTIGATION SUPERVISING INVESTIGATOR DOCUMENTATION

A supervisor may recognize exceptional performance by employees by submitting an interoffice memorandum to the Chief Investigator via the chain of command. The format of the memorandum should follow the format provided in section above. A Supervisor's Citation will be created, which will outline the performance of an employee that rises to such a level that it merits official documentation and recognition.

#### 613.4.3 BUREAU OF INVESTIGATION CHIEF'S DOCUMENTATION

The Chief Investigator or a Assistant Chief Investigator may issue a Chief's Commendation in recognition of an employee's outstanding accomplishments on behalf of the District Attorney's Office. A Chief's Commendation is a certificate that outlines the acts of an employee that rise to

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such a level that it merits such official documentation and recognition. A Chief's Commendation shall be presented to the employee being honored at an office-sanctioned event.

#### **613.4.4 COMMUNITY MEMBER DOCUMENTATION**

Documentation of a commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. Bureau of Investigation employees accepting the documentation should attempt to obtain detailed information regarding the matter, including:

- (a) The employee's name and assignment the date and time of the commendable act
- (b) A brief account of the commendable act with report numbers, as appropriate.
- (c) The signature of the person submitting the documentation.

#### **613.4.5 PROCESSING DOCUMENTATION**

Documentation regarding the commendable act of a Bureau of Investigation employee should be forwarded to the Chief Investigator via the chain of command. If the situation warrants doing so, a Supervising Investigator may elevate a memorandum to the level of a Supervisor's Citation, a Commander may elevate a memorandum to the level of a Commander's Citation, or the commendation may be elevated to a Chief's Commendation by the Chief Investigator or the Assistant Chief Investigator.

Copies of all commendations shall be kept in the employee's Administrative Personnel File.

#### **613.5 MEDAL OF VALOR**

Awarded by the Chief Investigator for extraordinary valor above and beyond the call of duty, the Medal of Valor shall be the highest award for an employee of the Bureau of Investigation.

The Medal of Valor shall be comprised of a medallion inscribed with the name of the agency and the wording "VALOR" suspended on a ribbon to be worn around the neck. In addition to the medallion, the recipient shall be awarded a certificate outlining the actions that support the awarding of the medal.

A Medal of Valor shall be presented to the employee being honored at an office-sanctioned event.

## **Fitness for Duty**

### **614.1 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 of Investigation remain fit for duty and able to perform their job functions (Government Code § 1031). Refer to County policy and appropriate MOU.

### **614.2 EMPLOYEE RESPONSIBILITIES**

- (a) Each employee shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- (b) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- (c) 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.

### **614.3 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 Investigator and appropriate Commander, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- (e) The Chief Investigator shall be promptly notified in the event that any employee is relieved from duty.

### **614.4 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 in order to obtain medical treatment or other reasonable rest period.

## *Fitness for Duty*

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### **614.5 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 authorization of the Assistant Chief Investigator or designee, 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 administrative leave for the wellbeing of the employee and until such time as the following may be completed:

- (a) A preliminary determination of whether the employee's conduct appears to be in compliance with policy and appropriate.
- (b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

### **614.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS**

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief Investigator or designee may serve that employee with a written order to undergo a physical and/or psychological examination to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination. The order shall also provide the factual circumstances giving rise to the concern about the employee's mental or emotional fitness for duty. Any psychologist to whom an investigator is ordered to report to for a fitness for duty examination and evaluation shall meet or exceed the minimum standards prescribed by Government Code section 1031(f).
- (b) The Bureau of Investigation will pay for and provide time off without loss of pay for the examination.
- (c) In order to facilitate the psychologist's examination of any referred employee, the Chief Investigator or designee will provide the examining physician or psychologist all pertinent information.
- (d) Medical and psychological reports shall be released to and retained by the Center for Employee Health and Wellness and kept confidential in accordance with applicable law. The Chief Investigator will be advised if the employee is fit for duty. If the employee is not fit for duty, the Chief Investigator will be provided with a listing of 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 psychologist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)).
- (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 psychologist 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 psychologist may be deemed insubordination and shall be subject to discipline up to and including termination.



### *Fitness for Duty*

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- (f) Once an employee has been deemed fit for duty by the examining physician or psychologist, the employee will be notified to resume his/her duties.

Traumatic situations vary and may require individual assessment or modification. Nothing in this policy prevents the Chief Investigator or designee from exercising discretion when evaluating an incident.

#### **614.7 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 relevant M.O.U..

#### **614.8 LIMITATION ON HOURS WORKED**

Except in very limited circumstances employees should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime

## Employee Assistance

### 615.1 PURPOSE AND SCOPE

Bureau of Investigation employees and their immediate family members may become involved in, or impacted by, incidents that are unique, psychologically traumatic and stressful; whether work related or not. As a result, employees or their immediate family members may require the assistance of Peer Support personnel or professional counseling services to manage emotional trauma. This policy provides guidance for these situations.

### 615.2 AVAILABLE ASSISTANCE

In addition to assistance available from the Office's Peer Support Group, and an employee's personal medical provider, counseling and psychological services are available from The Counseling Team International (TCTI). The Office has contracted with TCTI to provide psychological services to Bureau of Investigation employees and their qualifying immediate family members. Peer Support and TCTI assistance is available for both work related and non-work incidents. For personal medical provider assistance, employees should contact their individual medical provider for details.

For specific details pertaining to available services provided by TCTI, refer to the below attachment.



Below is a listing of different work duties or situations that may cause an employee to seek assistance. This is not meant to be an exhaustive list:

- (a) Serious injury, death, or suicide of department personnel.
- (b) Officer-involved shooting incidents that result in injury or death to another person.
- (c) Any officer-involved shooting incident or assault on an officer, whether or not an injury was suffered.
- (d) Any incident involving serious injury or death of a child.
- (e) Any incident involving exposure to, or the possibility of contracting Hepatitis, AIDS, SARS or other infectious diseases.
- (f) Major traffic collisions or any other incidents in which the employee was directly or indirectly involved which results in serious injuries or fatalities.
- (g) Any incident where the employee knows the victim(s) of serious injury or death.
- (h) Any critical incident with circumstances or working conditions that are likely to produce high levels of immediate or delayed emotional reactions (i.e. catastrophic earthquake, airline crash, etc.).
- (i) Any other situation considered to be traumatic in nature.

*Employee Assistance*

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## Payroll Records

### 616.1 PURPOSE AND SCOPE

Payroll records are submitted via EMACS on a bi-weekly basis for the payment of wages.

#### 616.1.1 RESPONSIBILITY FOR COMPLETION OF PAYROLL RECORDS

Employees are responsible for the accurate and timely submission of payroll records for the payment of wages. Employees knowingly submitting falsified payroll information may be disciplined, up to and including termination.

#### 616.1.2 TIME REQUIREMENTS

All employees are paid on a bi-weekly basis, usually on Wednesdays with certain exceptions such as holidays. Payroll records shall be completed and submitted via EMACS no later than 11:00 a.m. on the Tuesday morning following the end of the pay period, unless specified otherwise.

#### 616.1.3 SUPERVISOR RESPONSIBILITIES

Supervisors are responsible for ensuring the accuracy of payroll records submitted by employees they supervise (hours worked, absences, overtime, etc.). Supervisors shall approve the submitted records via EMACS no later than 11:00 p.m. on the Tuesday evening following the end of the pay period, unless specified otherwise.

# Outside Employment, Community Activities and Volunteer Work

## 617.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for Bureau of Investigation employees engaging in outside employment, business activity, all employees shall obtain written approval from the Chief Investigator prior to engaging in any outside employment. Approval shall be at the discretion of the Chief Investigator in accordance with the provisions of this policy, and County personnel rules and policies.

## 617.2 POLICY

All employees owe allegiance to the County of San Bernardino in the position held and for which they receive a wage. While it is not the intention of the District Attorney to prevent an employee from earning any outside income or engaging in private business, employees of the Bureau of Investigation are prohibited from engaging in any off-duty employment, activity, or enterprise that is inconsistent, incompatible, or in conflict with their duties or those of the organization (Government Code 1126, et seq). Employees shall not allow their community activities and volunteer work to adversely affect their work performance or availability to the Office.

## 617.3 OBTAINING APPROVAL

No employee of the Bureau of Investigation may engage in any outside employment or business activity without first obtaining prior written approval of the Chief Investigator or designee. Failure to obtain prior written approval may lead to disciplinary action.

In order to obtain approval, the employee must submit his/her request in an interoffice memorandum to the Chief Investigator through the chain of command. The memorandum must be accompanied by a completed Outside Employment Request form. The Chief Investigator or designee will review the request and either approve or deny the request within 30 days of receiving it.

If approved, the employee will be provided with a copy of the approved request. Requests are to be renewed during the first week of January of each year. It is the employee's responsibility to annually renew the request in writing. If the employee does not do so, permission for outside employment or business activity is cancelled.

Any employee seeking approval of outside employment or business activities, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial. The employee may appeal the denial by submitting a written response and request for appeal within 10 days from the date the employee received the written notice of denial. Via the chain of command, the written response shall be submitted to the Chief Investigator for review. The Chief Investigator will make the final determination.

## *Outside Employment, Community Activities and Volunteer Work*

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The original paperwork will be maintained in the employee's Administrative Personnel File maintained by the office of the Chief Investigator. A copy of the paperwork may also be kept in the employee's Unit Personnel File.

### **617.3.1 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT AND BUSINESS ACTIVITY**

Any approval of outside employment or business activity may be revoked or suspended under the following circumstances:

- (a) Should any aspect of an employee's performance at the Bureau of Investigation decline to a point where it is evaluated by a supervisor as below standards, the Chief Investigator may revoke any previously approved outside employment or business activity. That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement.
- (b) Suspension or revocation of previously approved outside employment or business activity may be included as a term or condition of sustained discipline.
- (c) If, at any time during the term of the approved outside employment or business activity, an employee's conduct or outside employment/business activity conflicts with the provisions of Bureau of Investigation policy, County policy or County personnel rules, the approval 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.

### **617.4 PROHIBITED OUTSIDE EMPLOYMENT AND BUSINESS ACTIVITY**

Consistent with the provisions of Government Code § 1126, the Bureau of Investigation expressly reserves the right to deny any outside employment or business activity request submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of Bureau of Investigation time, facilities, equipment or supplies, the use of the Bureau of Investigation badge, uniform, prestige or influence for private gain or advantage. Requests for an exception must be made in advance and in writing to the Chief Investigator.
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this Bureau of Investigation 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 an employee of the Bureau of Investigation.
- (c) Involves the performance of an act in other than the employee's capacity as an employee of the Bureau of Investigation that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of the Bureau of Investigation.
- (d) Involves time demands that would render performance of the employee's duties for the Bureau of Investigation less efficient.

## *Outside Employment, Community Activities and Volunteer Work*

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- (e) Could bring discredit, ridicule or criticism upon the Office, or could create a conflict of interest with an employee's official position or duties.
- (f) Is prohibited by law, or would be considered unethical.

### **617.5 BUREAU OF INVESTIGATION RESOURCES**

Employees are prohibited from using any Bureau of Investigation equipment or resources in the course of or for the benefit of any outside employment, business activity, community activities or volunteer work. This shall include the prohibition of access to official records or databases of the Office or other agencies through the use of the employee's position with the Bureau of Investigation.

Liability for any worker's compensation claims for injuries received during outside employment or business activity is directly upon the employee and the outside employer.

### **617.6 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

If an employee terminates his or her outside employment or business activity during the period of approval, the employee shall promptly submit written notification of such termination to the Chief Investigator through the chain of command. Any subsequent request for renewal or continued outside employment or business activity 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 information on any material changes in approved outside employment or business activity. Employees who are uncertain whether a change in outside employment or business activity is material are advised to report the change.

### **617.7 OUTSIDE EMPLOYMENT WHILE ON DISABILITY OR SICK LEAVE**

Bureau of Investigation employees engaged in outside employment or business activity who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief Investigator whether such outside employment should continue.

In the event the Chief Investigator determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions, a notice of revocation will be forwarded to the involved employee, and a copy attached to the original approved request.

Criteria for revoking the outside employment or business activity request include, but are not limited to, the following:

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## *Outside Employment, Community Activities and Volunteer Work*

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- (a) It is medically detrimental to the total recovery of the employee, as indicated by the County's professional medical advisers.
- (b) The activity requires the same or similar physical ability, as would be required of an on-duty employee.
- (c) The employee's failure to make timely notice of their intentions to his/her supervisor.

When the employee returns to full duty with the San Bernardino County District Attorney's Bureau of Investigation, a request (in writing) may be made to the Chief Investigator to restore the approval.

No employee shall engage in outside employment, business activity, community activities or volunteer work during regular work hours while on sick leave.

### **617.8 COMMUNITY ACTIVITIES AND VOLUNTEER WORK**

Community activities and volunteer work by employees of this Office may enhance an employee's community awareness, and be beneficial for the Office, in addition to the employee and the community. While most volunteer activities are incidental in time consumption, others may be very demanding, requiring large amounts of time and energy. Employees shall not allow their outside activities to adversely affect their work performance or availability to the Office.

Employees need not secure the permission of the Chief Investigator or designee to engage in volunteer community activities. Before engaging in outside activities, employees should consider the nature of their volunteer activities. If any area of involvement might give rise to compromise, conflict of interest, or an adverse effect on the employee's position within the Office, the employee should avoid the activity unless prior approval for the activity is secured in writing from the Chief Investigator through the chain of command.



# Occupational Disease and Work-Related Injury Reporting

## 618.1 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.

### 618.1.1 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.).

## 618.2 POLICY

The San Bernardino County District Attorney's Bureau of Investigation will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.).

## 618.3 RESPONSIBILITIES

### 618.3.1 EMPLOYEE RESPONSIBILITIES

Any employee 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).

### 618.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or work-related injury should ensure the employee receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Countywide disease- or injury-reporting protocol shall also be followed. Supervisors should contact the appropriate Commander as soon as is practical.

### 618.3.3 COMMANDER RESPONSIBILITIES

The required reports for an occupational disease or work-related injury shall be reviewed by the supervisor for accuracy and to determine what additional action should be taken. The reports shall then be forwarded to the employee's assigned Commander for review then forwarding to the County's Department of Risk Management.

### 618.3.4 CHIEF INVESTIGATOR RESPONSIBILITIES

Copies of the report and related documents retained by the Bureau of Investigation shall be filed by the Chief Investigator or designee in the employee's confidential Medical File.

## *Occupational Disease and Work-Related Injury Reporting*

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### **618.4 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 First Aid Record form, generally located in the break room, which shall be signed by a supervisor. A copy of the completed First Aid Record form should be forwarded to the Assistant Chief Investigator on an annual basis.

If the injury is extremely minor, the employee is not required to receive medical attention at the time of the report. This does not preclude his/her ability to later seek medical attention.

[See attachment: First Aid Record Form - Final - SM 8-30-16.pdf](#)

## Personal Appearance Standards

### 619.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other employees of the Bureau of Investigation, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for the District Attorney's Office and for their assignment.

### 619.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present safety issues, the following appearance standards shall apply, except those whose current assignment would deem them not appropriate, and where the Chief Investigator has granted exception.

#### 619.2.1 HAIR

Hair color shall be conservative and within the spectrum of normally occurring human hair.

##### Male Employees

All male employees shall keep their hair clean and properly trimmed at sufficiently frequent intervals so as to present a neat appearance at all times. The hair shall be maintained in such a manner as to be reasonably close to the head and the back of the hair shall be trimmed in such a manner as to not drop below the top of a dress shirt collar. Hair may be of such a length as to come in contact with the backside of the ear and may extend halfway over the ear.

##### Female Employees

All female employees shall keep their hair clean, neat and well groomed. The hair shall be arranged so that it does not interfere with vision in any way and is kept out of the eyes.

#### 619.2.2 BEARDS AND MUSTACHES

A short and neatly trimmed mustache or beard of natural color may be worn. Mustaches and beards shall be well groomed and of a conservative style. Unusual or exaggerated styles are not permitted.

#### 619.2.3 SIDEBURNS

##### Male employees

Sideburns shall not extend below the bottom of the ear and shall be well groomed and neatly trimmed so as to avoid any coverage of the ear. Sideburns may not flair at the base and shall not exceed one inch in width. Sideburns shall be trimmed at the lower most point in a horizontal line.

#### 619.2.4 FINGERNAILS

All employees fingernails shall be maintained so as to not interfere in any way with the performance of their primary assignment or duties. In addition, sworn personnel shall maintain their fingernails

## *Personal Appearance Standards*

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so as to not interfere with the safe use, drawing, or holstering of their assigned weapon(s). Sworn and technician personnel shall not have decals or jewelry attached to the fingernails.

### **619.2.5 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 of Investigation member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

- (a) Necklaces shall not be visible above the shirt collar.
- (b) Earrings shall be small and worn only in or on the earlobe.
- (c) One ring or ring set may be worn on each hand of the Bureau of Investigation member. No rings should be of the type that would cut or pose an unreasonable safety risk to the member or others during a physical altercation, if the member is assigned to a position where that may occur.
- (d) One small bracelet, including a bracelet identifying a medical condition, may be worn on one arm.
- (e) Wristwatches shall be conservative and present a professional image.
- (f) Tie tacks or tie bars worn with civilian attire shall be conservative and present a professional image.

### **619.3 TATTOOS**

At no time while on-duty or representing the Bureau of Investigation in any official capacity, shall any tattoo or body art be visible. Generally, these objects are to be completely covered by articles of clothing. However, a skin-colored patch not exceeding three (3) inches by three (3) inches may be used to cover a tattoo or body art if the object is completely covered by one patch. An employee shall not use multiple patches to cover tattoos or body art. For arms with tattoos or body art that cannot be completely covered by one patch, a skin-colored "arm sock" may be worn. This conforms with County Policy 07-16. Any deviation from this policy shall first be approved by the Chief Investigator or designee.

### **619.4 BODY PIERCING OR ALTERATION**

Body piercing or alteration to any area of the body that is visible, 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

## *Personal Appearance Standards*

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- (d) Branding or scarification.

[See attachment: County Standards of Dress and Grooming 2-6-07.pdf](#)

## Uniform Standards

### 620.1 PURPOSE AND SCOPE

The Bureau of Investigation maintains uniformity in the wearing of all authorized uniforms and equipment. Employees are required to wear and use only what has been authorized and set forth within this policy, and the policies listed below.

Bureau of Investigation Owned and Personal Property

Body Armor

Personal Appearance Standards

Exceptions to this policy are authorized only at the direction of the Chief Investigator or designee.

### 620.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT

(a) Maintenance of Uniforms and Equipment

1. Personnel shall maintain all uniform attire and equipment in a clean and serviceable condition, while also making them ready for immediate use.

(b) Wearing of the Uniform

1. Personnel shall wear the uniform attire described in this policy while participating in the service of a search warrant or while serving in special assignments where the wearing of the uniform is appropriate.
2. Special assignments may include search warrant or arrest warrant service, assisting other agencies, community awareness activities, disaster operations, community service events, and various training assignments. Personnel shall not wear any part of the uniform when off-duty, except as specifically authorized by the Chief Investigator or designee.
3. Unless authorized for good cause in advance by their supervisor, personnel shall not deviate from the authorized uniform by wearing items such as jeans, shirts or caps with various logos, or tennis type shoes.

(c) Altering Style of the Uniform

1. Uniforms shall be made of the material and in the style prescribed in this policy. Such style shall not be altered or changed in any manner without the express consent of the Chief Investigator or designee. Jewelry, pins, insignia or personal ornaments shall not be affixed to any part of the uniform or equipment.

(d) The authorized uniform for investigators shall be:

1. Lightweight Duty Jacket
  - (a) The jacket shall be manufactured by "Fechheimer/Flying Cross," or similar brand, constructed of black nylon with optional zipper liner, two front patch pockets, two hand warmer pockets and a zipper front. The jacket shall have San Bernardino County District Attorney Police patches sewn on

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both sleeves, ½” below the shoulder seam and centered. A black cloth name tape containing the employee’s first initial and last name shall be sewn above the right breast pocket. The name tape shall be approximately 1” wide and adjusted to match the full width of the pocket. The lettering shall be gold in color.

- (b) A San Bernardino County District Attorney cloth badge shall be centered and sewn ½” above the left breast pocket.
- (c) A placket shall be affixed to the upper back of the jacket, centered between the shoulder seams. The placket shall be black in color and contain the word “Police” above the words “DA Investigator.” The word “Police” shall be in 3” letters and the words “DA Investigator” shall be in 2” letters. All lettering shall be gold in color.

#### 2. Pants

- (a) The pants shall be of a “BDU” (Battle Dress Uniform) style. The pants shall be composed of cotton or nylon based fabric, and shall be black in color (SRT members are also permitted to wear their issued green pants.). The pants shall be designed with multiple pockets that are sufficient to carry tactical gear. Pocket flaps shall be secured by Velcro, buttons or snaps. The pants shall be “Blauer”, model 8810, Topps, model PA 601139, Pro Tuff, model MS110P, “5.11 Tactical Pants” or similar brand, tailored to fit properly, and the length of the pant leg shall allow for a medium break against the instep of the uniform boot or shoe. The pants shall not be worn in a “blouse” fashion, but be worn over the boot or shoe.
- (b) If appropriate for an assignment, chinos or denim pants may be worn with the approval of a supervisor.

#### 3. Shirt

- (a) The shirt shall be a “Port Authority” or “5.11” brand polo shirt, or similar brand. The shirt shall have a three-button front, be black in color and may be short or long sleeved (SRT members are also permitted to wear their green SRT polo for SRT functions, with proper approval).
- (b) A San Bernardino County District Attorney cloth badge shall be embroidered on the left chest area. The employee’s first Initial and last name rank shall be gold in color and embroidered in ¼” block on the right chest area. Directly under the employee’s name shall be embroidered in ¼” gold block lettering the employee’s rank Chief Investigator, Commander, Supervising Investigator, Senior Investigator, or Investigator.
- (c) The shirt shall be worn tucked into the uniform pants.
- (d) No other shirt with a logo is approved for wear while on-duty.

#### 4. Belt

- (a) The belt shall be of sturdy leather, cotton construction or nylon, capable of properly securing a holstered pistol, handcuff case and clip-on style

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## Uniform Standards

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badge. If so elected, a "Chambers," model 6050-01 or model 6010-01, or similar brand basket weave or plain leather belt may be worn.

### 5. Headgear

- (a) Baseball type caps may be worn to protect the head from the effects of the weather; including wind, rain or sun. Caps must be composed of a cotton fabric. They shall be plain black in color with the word "Police" embroidered in  $\frac{3}{4}$ " wide by 1" high gold printed lettering across the front panel.

### 6. Footwear

- (a) High or low cut oxford type shoes or boots may be worn. Footwear will have plain toes and no stitching on the top of the toe. Footwear shall be of a fabric or leather composition; or a combination of the two. If the footwear is comprised exclusively of leather, it shall not have a high gloss plastic or patent leather type finish. Footwear shall be black in color. The soles of shoes or boots shall be designed with a non-slip, raised tread material. No smooth soled footwear will be allowed. Socks shall be black in color when wearing the Field Operations uniform. White socks are not allowed.

### 7. Body Armor

- (a) As outlined in the Body Armor policy, an Office-issued ballistic vest shall be worn. For situations requiring a ballistic vest, investigator shall wear a black nylon Office-issued tactical ballistic vest (SRT members are permitted to wear their Office-issued green nylon tactical ballistic vest.). The back of the vest shall have the words "POLICE" in three-inch high gold-colored block lettering with the words "D.A. INVESTIGATOR" in one-inch gold-colored block lettering directly beneath the "POLICE" lettering. The front of the vest shall have an Office-issued District Attorney cloth badge stitched to the upper left breast. The front right breast of the vest shall also have the word "POLICE" in one and one-half-inch high gold-colored block lettering with the words "D.A. INVESTIGATOR" in half-inch gold-colored block lettering directly beneath the "POLICE" lettering.
  - (b) Office-issued tactical covers with permanently affixed pockets or Office-issued tactical covers with molle straps are approved for use. Investigators are authorized to purchase and affix a sturdy, high quality black nylon handcuff, radio, magazine, flashlight and/or a utility pocket on the molle. Pouches affixed to the molle are required to have Velcro or snap closures. Nylon or hard plastic clips on pouches affixed to the vest are prohibited. Investigators are prohibited from affixing a holster to the vest's molle.
- (e) The authorized uniform for investigative technicians shall be:
- 1. Lightweight Duty Jacket
    - (a) The jacket shall be "Cardinal," or similar brand, constructed of navy blue nylon with a sewn in liner, two hand warmer pockets and a snap button front.



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- (b) San Bernardino County District Attorney Police patches shall be sewn on both sleeves at the shoulder and will be centered on the middle crease of the sleeve.
  - (c) A placket measuring 3" x 1" shall be affixed to the sleeve, ½" below the shoulder patches. The placket shall be black in color with gold and blue border. The words "Investigative Technician" shall be on this placket in gold lettering.
  - (d) A navy blue placket shall be displayed on the upper back of the jacket, centered between the shoulder seams. The placket shall have a gold border and the words "District Attorney Investigative Technician" in 1" gold lettering.
2. **Pants**
- (a) Uniform pants shall be "Blauer," model 8810, or similar brand. The pants shall be black in color. The pants shall have two front quarter pockets and two pleated double-thigh pockets. The two hip pockets shall have button tabs. The pants shall be tailored to fit properly and the length of the pant legs should allow for a medium break against the instep of the uniform shoe or boot.
3. **Shirt**
- (a) The shirt shall be an "Outer Banks" polo shirt, or similar brand. The shirt shall have a three-button front and be gray in color.
  - (b) A San Bernardino County District Attorney cloth badge shall be embroidered on the left chest area. The employee's first initial and last name shall be black in color and embroidered in script on the right chest area of the shirt. The title of "Investigative Technician" shall be black in color and embroidered in ¼" block lettering under the employee's name.
  - (c) The shirt shall be worn tucked into the uniform pants.
4. **Belt**
- (a) The belt shall be a "Chambers," model 6050-01, or similar brand. The belt shall be 1½" wide and be of a black basket weave design.
5. **Footwear**
- (a) Footwear shall be black in color. High- or low-cut shoes or boots may be worn. Footwear will have plain toes and no stitching on the top of the toe. Socks shall be black in color when wearing high- or low-cut shoes with the uniform.

The investigative technician uniform may be worn while working in the office or while performing field duties. The uniform may be required to be worn when assisting in certain special assignments.

## *Uniform Standards*

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### 620.2.1 ISSUED IDENTIFICATION

The District Attorney's Office issues each employee an official Office identification card bearing the employee's name and a photograph of the employee. All employees shall be in possession of their Office-issued identification card at all times while on-duty. Whenever on-duty or acting in an official capacity representing the Office, employees should display their Office-issued identification in a courteous manner to any person upon request and as soon as practical. Investigators working specialized assignments may be excused from the possession and display requirements when directed by their Commander.

### 620.3 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief Investigator or designee, San Bernardino County District Attorney's Bureau of Investigation employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the San Bernardino County District Attorney's Bureau of Investigation to do any of the following (Government Code §§ 3206 and 3302):

- (a) Endorse, support, oppose, or contradict any political campaign or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

## Dress Standards

### 621.1 PURPOSE AND SCOPE

This policy provides guidelines for fostering and maintaining the highest standards for professional image and personal appearance.

### 621.2 POLICY

In order to achieve uniformity and professionalism, Bureau of Investigation personnel shall maintain at all times their personal appearance, in compliance with this policy.

Exceptions to this policy may be made for special assignments or other circumstances, and must have the approval of a supervisor. The District Attorney may authorize an exception to this policy by implementing the Summer Dress Attire. Office guidelines for this seasonal dress code are included in this policy.

Wearing shirts that have ornate, or vibrant prints and designs, including logos, symbols or images is prohibited. All clothing and footwear shall be neat, clean, and in good repair.

### 621.3 STANDARD ATTIRE

#### 621.3.1 SWORN PERSONNEL MALE

- (a) Clothing options:
  - 1. Suit, tucked in dress shirt, and tie.
  - 2. Sport coat, tucked in dress shirt and dress slacks or business casual slacks.
  - 3. Dress slacks or business casual slacks, and tucked in dress shirt.
  - 4. Uniform Polo – tucked in.
    - (a) Wearing shirts that contain logos, other than the District Attorney Bureau of Investigation polo described in Uniform Policy 4000.47, is prohibited.
  - 5. Untucked shirts that meet the following criteria:
    - (a) Dress shirt type design and fabric.
    - (b) Collared short-sleeve only.
    - (c) Full button-down front.
    - (d) Squared-off, flat, hemmed bottom.
    - (e) Solid color or unobtrusive pattern, without logos, symbols, or images.
- (b) Whenever possible, suits and ties shall be worn in court, when testifying.
- (c) Wearing shirts that have ornate, or vibrant prints and designs, including logos, symbols or images is prohibited.
- (d) Footwear shall consist of the following:

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### *Dress Standards*

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1. Closed front and back dress shoes.
2. Tie or slip-on.
3. Uppers to be leather, vinyl, or other material that can be polished.
4. Notched, irregular, sports or lug type soles are not preferred.

#### FEMALE

(a) Clothing options:

1. Business suit consisting of suit jacket, and pants with blouse.
2. Blazer with blouse, dress shirt, or sweater, with dress or business casual slacks.
3. Blouse, dress shirt, or sweater, with dress or business casual slacks.
4. Uniform Polo – tucked in.

(a) Wearing shirts that contain logos, other than the District Attorney Bureau of Investigation polo described in Uniform Policy 4000.47, is prohibited.

(b) Wearing shirts that have ornate, or vibrant prints and designs, including logos, symbols or images is prohibited.

(c) Footwear shall consist of the following:

1. Closed front and back dress shoes.
2. Tie or slip-on.
3. No back straps.
4. Uppers to be leather, vinyl, or other material that can be polished.
5. Notched, irregular, sports or lug type soles are not preferred.
6. Heels not to exceed 1 ½ inch in height.
7. Heels not to be less than 1 ½ inch wide.
8. Spiked or stiletto type heels are prohibited

#### 621.3.2 PROFESSIONAL STAFF

##### MALE

(a) Shall adhere to the County Standards of Dress and Grooming policy 07-16 effective February 6, 2007. Exceptions to this policy may be made for special assignments or other circumstances, and must have the approval of a supervisor. The daily wearing of the Investigative Technician uniform (refer to the Uniform Standards policy) is acceptable.

(b) Wearing shirts that contain logos, other than the District Attorney's Bureau of Investigation polo described in the Uniform Standards Policy, is prohibited.

(c) Wearing shirts that have ornate, or vibrant prints and designs, including logos, symbols, or images is prohibited.

(d) Footwear shall consist of the following:

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### *Dress Standards*

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1. Closed front and back shoes.
2. Tie or slip-on.
3. Leather, vinyl, or other material.
4. No sports type shoes, such as tennis shoes, etc.

#### FEMALE

- (a) Shall adhere to the County Standards of Dress and Grooming policy 07-16 effective February 6, 2007. Exceptions to this policy may be made for special assignments or other circumstances, and must have the approval of a supervisor. The daily wearing of the Investigative Technician uniform (refer to the Uniform Standards policy) is acceptable.
- (b) Wearing shirts that contain logos, other than the District Attorney's Bureau of Investigation polo described in Uniform Standards Policy, is prohibited.
- (c) Wearing shirts that have ornate, or vibrant prints and designs, including logos, symbols, or images is prohibited.
- (d) Footwear shall consist of the following:
  1. Closed front and back.
  2. Tie or slip-on.
  3. No back straps.
  4. Uppers to be leather, vinyl, or other material that can be polished.
  5. Notched, irregular, sports or lug type soles are allowed.
  6. Heels not to exceed 1 ½ inch in height.
  7. Heels not to be less than 1 ½ inch wide.
  8. Spiked or stiletto type heels are prohibited.

#### **621.4 SUMMER ATTIRE**

During periods when Summer Dress Attire is authorized through an Interoffice Memorandum describing the guidelines, Bureau of Investigation personnel may do so in accordance with County Standards of Dress and Grooming policy 07-16 (effective February 6, 2007), excepting that:

- (a) County Standards of Dress and Grooming policy 07-16 (effective February 6, 2007) indicates the proper attire is "business clothing", not "casual business clothing".
- (b) Wearing of clothing that contains floral, ornate, or vibrant prints and designs, such as Hawaiian type styles, including logos, symbols, or images is prohibited.
- (c) Footwear shall consist of the following:
  1. Closed front and back.
  2. Tie or slip-on.
  3. No back straps.

## *Dress Standards*

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4. Uppers to be leather, vinyl, or other material than can be polished.
5. Notched, irregular, sports or lug type soles are allowed.
6. Heels not to exceed 1 ½ inch.
7. Heels not to be less than 1 ½ inch wide.
8. No spikes, stilettos, or kitten type heels.

[See attachment: County Standards of Dress and Grooming 2-6-07.pdf](#)

## Nepotism and Conflicting Relationships

### 622.1 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 employees of the Bureau of Investigation. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

#### 622.1.1 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 of Investigation 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 of Investigation 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, 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, spouse, domestic partner,, child (natural, adopted or step), sibling or grandparen.

**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.

### 622.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Bureau of Investigation will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

- (a) Employees shall not directly supervise, occupy a position in the line of supervision or be directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

## *Nepotism and Conflicting Relationships*

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- (b) Employees considered relatives, as defined in this policy, should not be assigned to the same unit.
- (c) 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.
- (d) Whenever possible, employees will not be assigned to train relatives. Employees 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.
- (e) To avoid actual or perceived conflicts of interest, employees of the Bureau of Investigation 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.
- (f) Except as required in the performance of official duties, or in the case of relatives, employees shall not develop or maintain personal or business relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender who engages in serious violations of state or federal laws.

The Chief Investigator reserves the right to determine whether relationships represent actual or potential conflicts of interest. The Chief Investigator may take whatever action he/she determines to be appropriate and lawful to avoid the actual or potential conflicts of interest. Such action may include, but is not necessarily limited to, transfers, reassignments, shift changes, or disciplinary action up to and including possible termination.

### 622.2.1 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, embarrassment or discredit the Office, or cause some other violation of this policy, the employee shall promptly notify his/her uninformed, 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 uninformed, immediate supervisor. In the event that no uninformed supervisor is immediately available, the employee shall promptly notify a Commander.

### 622.2.2 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.



## Bureau of Investigation Badges

### 623.1 PURPOSE AND SCOPE

The San Bernardino County District Attorney's Bureau of Investigation badge and uniform patch as well as the likeness of these items and the name of the District Attorney's Office and the Bureau of Investigation are property of the District Attorney's Office and their use shall be restricted as set forth in this policy.

### 623.2 POLICY

The badge shall be issued to Bureau of Investigation investigators as a symbol of authority, and the use and display of the Bureau of Investigation badges shall be in strict compliance with this policy. Flat badges shall be issued to investigative technicians. Only authorized badges issued by the Bureau of Investigation shall be displayed, carried or worn while on-duty or otherwise acting in an official or authorized capacity.

#### 623.2.1 FLAT BADGE

Investigators and Investigative Technicians shall be issued a flat badge. The use of the flat badge is subject to all the same provisions of Bureau of Investigation policy as the regular badge. Should the flat badge become lost, damaged, or otherwise removed from the employee's control, he/she shall make the proper notifications as outlined in the Bureau of Investigation Owned and Personal Property Policy.

#### 623.2.2 PROFESSIONAL STAFF

Badges and Bureau of Investigation identification cards issued to professional staff shall be clearly marked to reflect the position of the assigned employee.

- (a) Professional staff shall not display any Bureau of Investigation badge except while on-duty, or otherwise acting in an official and authorized capacity.
- (b) Professional staff shall not display any Bureau of Investigation 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.

#### 623.2.3 RETIREES

Retirees (investigators only) may be issued a flat badge with the approval from the Chief Investigator or designee. The badge shall identify the retiree as such.

### 623.3 UNAUTHORIZED USE

Bureau of Investigation badges are issued to all investigators and investigative technicians for official use only. The Bureau of Investigation badge, shoulder patch or the likeness thereof, or the name Bureau of Investigation 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.

## *Bureau of Investigation Badges*

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The use of the badge, uniform patch and Bureau of Investigation name for all material (printed matter, products or other items) developed for Bureau of Investigation use shall be subject to approval by the Chief Investigator or designee.

An employee shall not loan his/her Bureau of Investigation badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

### **623.4 PERMITTED USE BY EMPLOYEE GROUPS**

The likeness of the Bureau of Investigation badge shall not be used without the express authorization of the Chief Investigator or designee, and shall be subject to the following:

- (a) The employee associations may use the likeness of the Bureau of Investigation badge for merchandise and official association business provided they are used in a clear representation of the association and not the San Bernardino County District Attorney's Bureau of Investigation. 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 of Investigation badge for endorsement of political candidates shall not be used without the express approval of the Chief Investigator.

## Temporary Modified-Duty Assignments

### 624.1 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 of Investigation to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

### 624.2 POLICY

Subject to operational considerations, the San Bernardino County District Attorney's Bureau of Investigation may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Bureau of Investigation with a productive employee during the temporary period.

### 624.3 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 Bernardino County District Attorney's Bureau of Investigation shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Bureau of Investigation. 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, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 180 days in any one-year period.

### 624.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

## *Temporary Modified-Duty Assignments*

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Employees seeking a temporary modified-duty assignment should submit a written request to the Chief Investigator through the chain of command. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Chief Investigator or the authorized designee shall confer with the County's Department of Human Resources or County Counsel as appropriate.

### **624.5 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 of Investigation operations and the employee's medical appointments, as mutually agreed upon with the Chief Investigator or authorized designee.

#### **624.5.1 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 his/her supervisor that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

#### **624.5.2 SUPERVISOR RESPONSIBILITIES**

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified-duty.

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising his/her Commander of the status and performance of employees assigned to temporary modified-duty.

## *Temporary Modified-Duty Assignments*

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- (b) 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.
  1. Refer to the Firearms Policy for firearms qualifications requirements.

### **624.6 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 of Investigation may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

### **624.7 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.

#### **624.7.1 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.

### **624.8 PROBATIONARY EMPLOYEES**

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

### **624.9 MAINTENANCE OF CERTIFICATION AND TRAINING**

Employees assigned to temporary modified-duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified-duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

# Employee Speech, Expression and Social Networking

## 625.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the District Attorney's Office and the Bureau of Investigation.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or employee associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

### 625.1.1 APPLICABILITY

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, use of all internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video, and other file-sharing sites.

## 625.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of the District Attorney's Office and the Bureau of Investigation. Due to the nature of the work and influence associated with the Office and the law enforcement profession, it is necessary that employees of the Bureau of Investigation be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the San Bernardino County District Attorney's Bureau of Investigation will carefully balance the individual employee's rights against the Office's and the Bureau of Investigation's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

## 625.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the internet. Speech and expression that may negatively affect the safety of Office employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any Office employee, an Office employee's family or associates.

## *Employee Speech, Expression and Social Networking*

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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 an Office employee.
- Otherwise disclosing where another Office employee can be located off-duty.

### **625.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT**

To meet the Offices safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or employee associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the District Attorney's Office or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Office and tends to compromise or damage the mission, function, reputation or professionalism of the Office or its employees. Examples may include:
  1. Statements that indicate disregard for the law or the state or U.S. Constitution.
  2. Expression that demonstrates support for criminal activity.
  3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Office.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the San Bernardino County District Attorney's Bureau of Investigation.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Bureau of Investigation for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief Investigator or the authorized designee.
- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of the Office or the Bureau of Investigation logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Office or the Bureau of Investigation on any personal or social

## *Employee Speech, Expression and Social Networking*

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networking or other website or web page, without the express authorization of the Chief Investigator.

- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or Bureau of Investigation-owned, for personal purposes while on-duty, except in the following circumstances:
  1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
  2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

### 625.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or employee associations, employees may not represent the San Bernardino County District Attorney's Bureau of Investigation or identify themselves in any way that could be reasonably perceived as representing the San Bernardino County District Attorney's Bureau of Investigation in order to do any of the following, unless specifically authorized by the Chief Investigator (Government Code § 3206; Government Code § 3302):

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or employee associations), is affiliated with this Bureau of Investigation, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the San Bernardino County District Attorney's Bureau of Investigation.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or employee associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or



## *Employee Speech, Expression and Social Networking*

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indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

### **625.5 PRIVACY EXPECTATION**

Employees forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any internet site (e.g., Facebook) that is accessed, transmitted, received, or reviewed on any Bureau of Investigation technology system (see the Information Technology Use Policy for additional guidance).

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

### **625.6 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief Investigator or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Bureau of Investigation or the efficiency or morale of its employees.
- (c) Whether the speech or conduct would reflect unfavorably upon the Office.
- (d) Whether the speech or conduct would negatively affect the employee's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Office.

### **625.7 TRAINING**

Subject to available resources, the Bureau of Investigation should provide training regarding employee speech and the use of social networking to all employees of the Bureau of Investigation.

## Ride-Alongs

### 626.1 PURPOSE AND SCOPE

This policy provides guidelines for Bureau of Investigation professional staff interested in going on a ride-along with another law enforcement agency. A ride-along is an opportunity for professional staff to experience first-hand how law enforcement officers carry out their official duties.

### 626.2 POLICY

To participate in a ride-along while on-duty, the employee shall obtain prior approval from his/her supervisor. A supervisor's approval will, in part, be based on staffing needs. Participating in a ride-along will also require approval from management of the law enforcement agency. One on-duty ride-along is permitted in a six-month period (record of each ride-along shall be maintained in the employee's division personnel file). An on-duty ride-along should occur during an employee's regular shift, last for not more than four hours and occur within the County of San Bernardino. Participating in a ride-along while off-duty does not require approval from a supervisor.

All employees shall abide by the following when on a ride-along, whether on- or off-duty. Any exception must be approved ahead of time by the Chief Investigator or designee.

- Do not represent yourself as a District Attorney's Office employee to the public.
- Do not wear anything displaying a Bureau of Investigation or District Attorney's Office logo, or that contains words specifically referring to the Bureau of Investigation or District Attorney's Office.
- Do not take any law enforcement action, except when necessitated by an emergency.
- Follow the instructions of the law enforcement officer providing the ride-along.
- Do not become involved in an investigation, handle evidence, have discussions with involved parties (examples: victims, witnesses, suspects), or handle any law enforcement equipment unless requested to do so by the law enforcement officer.
- Do not offer legal advice; either personal or on behalf of the District Attorney's Office.
- Do not use any type of recording device or take photographs.
- Follow any ride-along policy and procedures established by the department providing the ride-along, provided there is no conflict with any Bureau of Investigation policy. If you believe there is a conflict, immediately contact your supervisor.
- You may terminate the ride-along at any time and ask to be dropped off at the police or sheriff station as soon as possible.

When participating in a ride-along while on-duty, wear casual business attire in compliance with Bureau of Investigation policy. Exceptions shall be approved ahead of time by the Chief Investigator or designee.

During a ride-along, you may become involved in an emergency situation – risk to health, life, property or the environment. If this occurs while on-duty, contact a supervisor as soon as practical.

# San Bernardino County District Attorney's Bureau of Investigation

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## *Ride-Alongs*

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Provide the supervisor with the following: location of the incident, type of incident, injuries, and any other important information. The supervisor shall provide guidance and ensure a Commander is notified.

All conduct of an employee during a ride-along shall be in compliance with Bureau of Investigation policies.

## Line-of-Duty Deaths

### 627.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to employees of the San Bernardino County District Attorney's Bureau of Investigation in the event of the death of an employee occurring in the line of duty, and to direct the Office in providing proper support.

The Chief Investigator may also apply some or all of this policy in situations where employees are injured in the line of duty and the injuries are life-threatening.

#### 627.1.1 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 his/her assigned duties.

**Survivors** - Immediate family members of the deceased employee, 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 employee and whether the individual was previously designated by the deceased employee.

### 627.2 POLICY

It is the policy of the San Bernardino County District Attorney's Bureau of Investigation to make appropriate notifications and to provide assistance and support to survivors and coworkers of an employee who dies in the line of duty.

It is also the policy of this Bureau of Investigation to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

REFER TO THE LINE OF DUTY DEATH MANUAL for procedures and other guidance.

## Expenses and Travel

### 628.1 PURPOSE AND SCOPE

This policy provides guidance for handling travel and other expenses that are approved as work related.

### 628.2 POLICY

Employees may incur expenses as a result of carrying out their assigned duties as an employee of the Bureau of Investigation. With proper approval for work related expenses, employees will be reimbursed as stated below.

### 628.3 REIMBURSEMENT

- (a) Expenses incurred by employees for the sake of the Office may be reimbursable. Employees are required to correctly complete the appropriate expense report(s), then submit the necessary paperwork to the person's supervisor for review and signature. The supervisor will then submit the completed paperwork to his/her Commander for final approval.
- (b) Trips outside of the County for longer than one day, for the purpose of attending conventions, conferences, and meetings, shall require the approval of the Chief Investigator or a designee.
- (c) Trips involving routine duties outside of the County, during which Office or County expenses may be incurred, shall require the approval of the employee's immediate supervisor or a designee prior to the trip.
- (d) Failure to obtain proper supervisory approval in advance of expenditures may result in an expense reimbursement not being approved.
- (e) Expenses incurred by an employee will be reimbursed per the employee's respective bargaining unit M.O.U. guidelines.
- (f) Claims for expenses must be accounted for on the County Expense Claim Form (Number 15-211-000).
- (g) Meals for witnesses are handled in accordance with established Office procedures. Special circumstances must be approved in advance by a supervisor. (Refer to the Witness Cash Fund policy for additional information)

## Retiree Concealed Firearms

### 629.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of San Bernardino County District Attorney's Bureau of Investigation identification cards under the Law Enforcement Officers' Safety Act (LEOSA) and California law (18 USC § 926C; Penal Code § 25455; Penal Code § 25460(c)).

### 629.2 POLICY

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

### 629.3 LEOSA

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

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

#### 629.3.1 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 Bernardino County District Attorney's Bureau of Investigation qualifies the former investigator, the LEOSA identification card or separate certification should indicate the date the former investigator was tested or otherwise found by the Bureau of Investigation to meet the active duty standards for qualification to carry a firearm.

#### 629.3.2 AUTHORIZATION

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

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

## *Retiree Concealed Firearms*

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

### **629.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE**

Any full-time sworn investigator of this Bureau of Investigation 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).

#### **629.4.1 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 of Investigation.
- (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."

# San Bernardino County District Attorney's Bureau of Investigation

SBCDA Bureau of Investigation Policy Manual

## *Retiree Concealed Firearms*

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### **629.5 FORMER INVESTIGATOR RESPONSIBILITIES**

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

The former investigator and the department shall conform to the regulations outlined in Penal Code § 16360, 16690, 25450-25475, 25615-25655, 26300-26325, 16750(b), 16840(b), 17030, 25850-26025, 26030(a)-(c), 26035-26055, which outline the requirements, conditions, and descriptions of those retirees authorized to carry a concealed weapon (CCW).

A retiree Identification Certificate with or without a CCW endorsement expires every 5 years. It is the responsibility of the retiree to petition the department for a renewal at that time.

#### **629.5.1 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 of Investigation 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 of Investigation.
- (b) Remain subject to all applicable Bureau of Investigation policies and federal, state and local laws.
- (c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.
- (d) Successfully pass an annual criminal history background check indicating that he/she is not prohibited by law from receiving or possessing a firearm.

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

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

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



## *Retiree Concealed Firearms*

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### 629.5.3 CARRYING A FIREARM OUT OF STATE

With respect to Title 18 United States Code 926C (The Law Enforcement Officers Safety Act of 2004 or HR218), qualified, retired investigators of this Bureau of Investigation may also be authorized to carry a concealed weapon in other states.

Qualified retired investigators must comply with the qualification provisions of the Law Enforcement Officers Safety Act of 2004 (HR 218) and maintain those records.

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

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

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

A CCW endorsement for any investigator retired from this Bureau of Investigation may be denied or revoked only upon a showing of good cause. The CCW endorsement may be immediately and temporarily revoked by the Assistant Chief Investigator or designee 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 of Investigation 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 of Investigation, 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 of Investigation and the retiree.

# San Bernardino County District Attorney's Bureau of Investigation

## SBCDA Bureau of Investigation Policy Manual

### *Retiree Concealed Firearms*

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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 of Investigation will then reissue a new identification card which shall be stamped "No CCW Privilege."
- (d) Employees who have reason to suspect the conduct of a retiree has compromised public safety shall notify a supervisor or the Assistant Chief Investigator as soon as practicable. The Assistant Chief Investigator or designee should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.
  - (a) Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).
  - (b) The Assistant Chief Investigator should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief Investigator.
  - (c) The personal and written notification should be as follows:
    - (a) The retiree's CCW endorsement is immediately and temporarily suspended.
    - (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
    - (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
  - (d) In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Assistant Chief Investigator should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Assistant Chief Investigator may request that a law enforcement officer from that agency act as the agent of the Bureau of Investigation to deliver the written notification.
- (e) If the authorization to carry a concealed firearm is used for other employment, volunteer work or business, the authorization to carry a firearm is considered immediately revoked.

#### **629.8 FIREARM QUALIFICATIONS**

The Rangemaster may provide former investigators from this Bureau of Investigation 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 Chief Investigator's secretary will maintain a record of:

- (a) The qualifications and weapons used,
- (b) Copies of all retirement identification documents,

## *Retiree Concealed Firearms*

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- (c) The retiree's signed statement acknowledging all of the CCW conditions and restrictions for authorization, and
- (d) The retiree's most current address and telephone number. Retirees shall make every effort to keep the Bureau of Investigation informed of this information.

If a former investigator does not pass the firearms qualification, remediation may be provided in accordance with the SBCSD's Firearms Remediation policy.



# San Bernardino County District Attorney's Office, Bureau of Investigation Policy Manual

SBCDA Bureau of Investigation Policy Manual

## **Attachments**

**Commission on Peace Officer Standards and  
Training Hate Crimes Model Policy 2019.pdf**

## **Cell Phone Agreement.pdf**

**County Substance Abuse-Reasonable Suspicion  
Drug and Alcohol Testing policy 9-12-06.pdf**



**COUNTY OF SAN BERNARDINO  
POLICY MANUAL**

No. 07-17

ISSUE

PAGE 1 OF 4

By

EFFECTIVE 9/12/06

**SUBJECT  
SUBSTANCE ABUSE/REASONABLE SUSPICION  
DRUG AND ALCOHOL TESTING**

**APPROVED**

Chair, Board of Supervisors

**POLICY**

The County of San Bernardino is committed to providing a safe work environment. This commitment is placed in jeopardy when any employee participates in the illegal use or abuse of drugs or alcohol on or off the job. Substance abuse is a serious problem that can endanger County operations and the safety of employees and those who seek services from the County. Employees who abuse drugs and/or alcohol, on or off duty, tend to be less productive and have substandard performance, be less reliable and prove to have greater absenteeism, accidents, injury to themselves and others resulting in the potential for increased loss, delay, risk, and liability.

It is the policy of the County to strictly prohibit the possession, consumption, sale, purchase, distribution, manufacture, or being under the influence of alcohol and/or illegal drugs (or prescription drugs, if use adversely affects the employee's ability to perform County employment safely and effectively) during employee's work hours, in County vehicles, personal vehicles used for County business, while in County uniform, or on County property. It is the intent and goal of this policy to provide a supportive process for intervention and rehabilitation while also protecting the working environment. Moreover, this policy authorizes the County to require an employee to immediately submit to substance abuse screening based on reasonable suspicion. No Department policy shall be less restrictive than the County's policy.

**POLICY AMPLIFICATION**

When the employee exhibits on-duty behavior indicative of substance abuse, the appointing authority or designee shall have the right to direct the employee to submit to substance abuse testing based on reasonable suspicion.

**DEFINITION**

Reasonable suspicion is a belief based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, and/or body odors of the employee and reasonable inferences drawn from those facts related specifically to job performance, a threat to themselves or the safety of others.

Alcohol is any beverage containing alcohol. Although the purchase and consumption of alcohol is legal, the use of alcohol as outlined in this policy is in direct violation of this policy.

Drugs are any controlled or illegal substance (subject to regulation by the state or federal government) capable of altering the mood, perception, or judgment of the individual consuming it.

Prescription drugs are any drug or medication prescribed by a licensed physician for a medical condition. Use of prescribed drugs are not in direct violation of this policy, however, inappropriate use or prescribed use that may cause significant impairment, thus creating a safety hazard on the job, is in direct violation of this policy.



## **RESPONSIBILITY**

### Employee Responsibilities

1. It is the responsibility of all employees to abide by and cooperate in the implementation, administration, and enforcement of this policy.
2. Employees shall notify their supervisor when there is a reasonable suspicion that a co-worker is under the influence of drugs or alcohol or in possession of drugs or alcohol.
3. No employee shall report to work or be subject to duty while under the influence of alcohol, illegal drugs and/or other mind-altering chemicals. Any employee who has alcohol or illegal drugs in their system when they report to work or during working hours that leads to a reasonable belief the employee may be under the influence, is in violation of this policy, regardless of when or where the substance entered the employee's system (this includes during off-duty hours).
4. No employee shall possess or use alcohol and/or drugs (including prescription drugs without a prescription) during working hours or while subject to duty, on breaks, during meal periods, while in uniform (including before, during, or after work), in a County vehicle, or at any time while on County property.
5. No employee shall manufacture, sell, distribute or otherwise provide, directly or through a third party, alcohol or drugs to any person, including any other County employee, while either employee or both employees are on duty or subject to being called for duty, nor shall an employee store any alcohol or illegal drugs in County vehicles or on County property.
6. Prescription drugs could adversely affect the employee's ability to perform County employment safely and effectively. Prior to beginning work, an employee must notify his supervisor if he is taking any medication or drugs, prescription or non-prescription, which could be foreseen as interfering with the safe and effective performance of duties. (If there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medication or drugs, clearance from The Center for Employee Health and Wellness or a qualified physician may be required.)
7. An employee must report any alcohol and/or drug-related criminal arrests for possible violations no later than five (5) days after such arrest so that the County may determine whether the conduct that led to the arrest is reasonably related to and/or may affect the employee's ability to perform the duties of his/her position. Such reporting shall be made to the Human Resources Officer assigned to the employee's department. Access to information pertaining to the employee's arrest shall be limited to the Human Resources Officer and Director of Human Resources or authorized representatives. Any report filed by the employee that is not found to be job-related shall not become part of the employee's personnel file.
8. An employee is required to submit to a drug and/or alcohol test when their supervisor is exercising their discretion under this policy.

Supervisor's Responsibilities

When there is reasonable suspicion that an employee may have illegal drugs and/or alcohol in his/her possession or the employee is under the influence of drugs and/or alcohol, the supervisor shall follow the procedures outlined in this policy as appropriate.

Procedure

1. A supervisor or County official must witness the conduct which constitutes reasonable suspicion. Hearsay or secondhand information is not sufficient cause to require an employee to submit to a drug and/or alcohol test. Once the supervisor has observed the behavior, or if the suspect employee has been reported to the supervisor and, the supervisor has observed the behavior, the supervisor or County official should complete the *Observed Behavior – Reasonable Suspicion Record* form to record the behavior. If possible, a second person should be present to corroborate the behavior. A separate form should be completed for each witness observing the behavior. Supervisor or County official will notify the department Human Resources Officer or the Employee Relations office to notify another Human Resources Officer.
2. Once the observation is made, the supervisor or County official will discuss the conduct with the employee. If, after the observation and questioning the employee, it is reasonable to suspect substance abuse, the supervisor or County official will direct the employee to submit to an alcohol and/or drug test for reasonable suspicion.
3. If the employee refuses to submit to the tests, the supervisor or County official will inform the employee that this is a directive and failure to follow the directive will be considered insubordination and result in an assumption they are under the influence and appropriate disciplinary action will be taken. The employee should be immediately relieved of duties and transported to his/her home by a responsible party. If an employee attempts to leave work site unescorted, the supervisor should inform the employee that law enforcement will be notified. If an employee leaves unescorted, supervisor should contact proper law enforcement indicating an employee is leaving the premises driving a vehicle and it is believed they are under the influence.
4. If the employee complies with the directive for drug and/or alcohol screening, the supervisor or County official will arrange transport of the employee by a responsible party to the location from the list of authorized collection sites with the appropriate forms, both available from the department Human Resources Officer.
5. A urinalysis test will be given when testing for drugs or alcohol, unless a department has their own approved policy. A 10-panel drug screen will test for the following drugs:
  - Cannabinoids as Carboxy-(THC)
  - Cocaine Metabolites as Benzoyllecgonine
  - Phencyclidine (PCP)
  - Opiates (codeine/morphine)
  - Amphetamines (amphetamine/methamphetamine)
  - Barbiturates
  - Benzodiazepines
  - Methadone

- Methaqualone
- Propoxyphene

Other tests not listed above may be requested by department if the observed behavior warrants such test.

6. The supervisor or a responsible party must wait with the employee until the drug and/or alcohol screen has been conducted and transport the employee after the test to his/her home.
7. If the employee complies with the directive for drug and/or alcohol screening, but provides a specimen that is diluted or altered, or the temperature is out of the normal range (normal range is 32-38 degrees Centigrade or 90-100 degrees Fahrenheit) the test will be considered a verified positive test, and disciplinary action may be taken for providing a diluted or altered specimen.
8. Drug testing is performed by an independent laboratory certified to perform the given test. The laboratory will contact the Employee Relations Division with the results of the drug test. Positive test for alcohol shall be .02 alcohol concentration, and positive drug test shall be in accordance with the threshold levels ("screening cutoff" and "confirmation cutoff") under the Department of Transportation (DOT) procedures for Transportation Workplace Drug Testing Programs.
9. Departments should also refer employees to the Employee Assistance Program to provide for remedial treatment as appropriate.
10. The County of San Bernardino may, in its sole discretion, impose administrative/disciplinary measures, up to and including termination, upon employees for violation of any County policy, rule, Personnel Rule, and/or work-related problems on a case-by-case basis.

Attachments

[Observed Behavior – Reasonable Suspicion Record](#)

Last updated 8/23/06

## **County Standards of Dress and Grooming 2-6-07.pdf**



**COUNTY OF SAN BERNARDINO  
POLICY MANUAL**

No. 07-16

ISSUE 2

PAGE 1 OF 4

By

EFFECTIVE 02-06-07

SUBJECT

APPROVED

**PAUL BIANE**

**STANDARDS OF DRESS AND GROOMING**

CHAIRMAN, BOARD OF SUPERVISORS

**POLICY**

The County of San Bernardino is a professional organization. All employees will present a professional appearance in order to promote a positive image to customers. The general public frequently forms its initial impression of professional credibility solely on employee appearance. The appropriateness of attire as seen by the general public has a bearing on how other agencies and departments view employee professionalism and ultimately working relationships.

This policy applies to all employees, regardless of classification, and is consistent with community standards. Individual departments may have more specific policies in place based on needs.

An employee's religious beliefs or medical conditions, as defined by applicable law, that require deviation from the standards as set forth will be considered on an individual basis.

This policy is intended to provide guidelines on dress and appearance and is not meant to address all situations. There may be differences in some department's or division's dress guidelines depending on the nature of the work environment, nature of work performed, involvement with the public, required uniforms or other circumstances as defined by the department head. These differences, in addition to this general policy may be subject to the meet and confer requirements of Government Code Section 3500 et seq. The standards in this policy apply when an employee has officially reported to work.

**POLICY AMPLIFICATION**

1. Clothing

- A. Employees who wear uniforms are expected to report for duty in the departmentally assigned uniform. Uniforms are expected to be clean and pressed. Additional standards are communicated at the departmental level or in bargaining unit MOU's.
- B. Employees who are not required to wear uniforms are expected to wear business clothing appropriate to the position held. Attire is expected to be clean, pressed and well fitting.
- C. Acceptable attire for women includes dresses, skirts, capri style suits, or slacks/trousers worn with blouses, sweaters and/or jackets. The length of dresses or skirts should be no shorter than mid-thigh when seated.
- D. Acceptable attire for men includes suits, slacks/trousers worn with collared shirts, collared sport shirts, dress shirts, polo shirts, sweaters and/or jackets. When deemed appropriate, ties should be worn.
- E. Except as noted or approved by the department head, employees may not wear the following:
  - (1) Denim jeans of any color.
  - (2) Overalls or coveralls.
  - (3) Shorts of any type.
  - (4) Tee shirts or jerseys with graphics including logos related to team sports.

- (5) Gym or sweat pants, workout wear, uncovered spandex pants/leggings.
- (6) Shirts or dresses with spaghetti straps unless covered by a jacket, blouse or other outer garment; shirts that expose stomach or midriff area, halter or tube type shirts, see-through or fishnet tops.
- (7) Low front or low back attire.
- (8) Excessively tight fitting or oversized (baggy) garments.

This list is an example only and may not include all items deemed inappropriate.

## 2. Footwear and Accessories

- A. All footwear is expected to be appropriate to the employee's position. Shoes are to be neat, clean and in good repair. Heels should not be more than three inches high. Sandals of any material which are commonly referred to as flip-flops or thongs are prohibited for all employees.
- B. No bandanas or baseball caps are allowed except as approved by the department head.

## 3. Tattoos and Jewelry

Except as noted or approved by the department head:

- A. Tattoos must be covered.
- B. All jewelry worn by employees must be appropriate so it does not detract from a professional appearance. All facial piercing jewelry such as nose piercing, tongue piercing, eyebrow piercing, lip piercing, or any other facial piercing jewelry is prohibited.

## 4. Personal Hygiene

- A. Personal hygiene is essential. Therefore it is necessary that all employees maintain a clean, presentable appearance. Personal hygiene includes a regular bath/shower, use of deodorant, and appropriate oral hygiene.
- B. Strong odors caused by perfumes, scented hair sprays, and aftershave lotions can be offensive and are to be used in moderation out of concern for the comfort of others.
- C. Employees are expected to maintain appropriate and professional hairstyles. Beards, sideburns and mustaches must be clean and neatly groomed. Hair must be properly restrained for its length and job assignment. Hair coloring should be within the range of natural hair colors.

## 5. County Identification

- A. Each employee will have and wear an approved County identification badge at all times while on duty, photo side facing out except where specifically exempted or prohibited by the employee's department due to a safety issue or in cases where wearing an identification badge will interfere with the execution of the employee's duties.

**RESPONSIBILITIES AND PROCEDURES**

1. Each new employee will receive a copy of the policy during orientation. All employees will be required to sign an acknowledgement verifying that the policy has been read and understood. Employees will be allowed up to 120 calendar days from the date of adoption of this policy to become compliant with Policy Amplification, Clothing, E. (1). On a case by case basis, in the event of a financial hardship an employee should contact their department head to request an extension.
2. Supervisors are responsible for explaining and enforcing the dress and appearance policy. Employees who report to duty and are non-compliant with the dress and appearance policy may be sent home to change without compensation. Failure to comply with, and repeated violations of this policy will be cause for disciplinary action up to and including dismissal.
3. Consistent with this policy, exceptions can be made at the department level by the Department Head due to the nature of work, special events, casual Fridays and departmental clean-up days.
4. Issues or disagreements arising out of the enforcement of this and departmental dress and grooming policies shall be reviewed by the department head or designee and/or the department's Human Resources Officer.

Rev. 2/07



## STANDARDS OF DRESS AND GROOMING ACKNOWLEDGEMENT FORM

I, \_\_\_\_\_, acknowledge  
Name (Please Print)

receipt of a copy of the Standards of Dress and Grooming Policy and  
understand that I must comply with its contents.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisor/Manager Signature

\_\_\_\_\_  
Date

cc: Department Employee File  
201 File

\_\_\_\_\_  
Employee ID



**County Policy Section 09 - Email-  
Telephone-Internet-Computer Systems.pdf**

Section: 09  
Information Technology: Email, Telephone, Internet and  
Computer Systems



County of San Bernardino  
**Policy Manual**

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# County of San Bernardino

# Policy Manual

## Section: 09

### Information Technology: Email, Telephone, Internet and Computer Systems

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**COUNTY OF SAN BERNARDINO  
POLICY MANUAL**

**No.** 09-01  
(supersedes 07-13)

**ISSUE 2**

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**By**

**EFFECTIVE 3/23/04**

**SUBJECT**  
ELECTRONIC MAIL (E-MAIL) SYSTEMS

**APPROVED**  
*DENNIS HANSBERGER*  
Chair, Board of Supervisors

**PURPOSE**

To establish policy and guidelines for the use of the County of San Bernardino's electronic mail (e-mail) systems.

**SCOPE**

This policy applies to all users of the County of San Bernardino's electronic mail systems.

**POLICY STATEMENT**

The County e-mail systems are valuable resources for communication of information that is necessary to conduct county Business. Employees and other authorized users are encouraged to make use of this tool to carry out their responsibilities and duties in a professional and courteous manner, which is in the best interest of the County.

**PRIVACY/USE**

In order to ensure the proper use of County resources, the County reserves the right without advance notice to users of the e-mail systems to monitor, access, copy, or delete any messages stored on any of its e-mail systems. **NO USER OF ANY COUNTY E-MAIL SYSTEM SHOULD HAVE AN EXPECTATION OF PRIVACY IN ITS USE.** The County recognizes that certain agencies have a duty of confidentiality imposed by law. For those agencies in the event that e-mail must be accessed, confidentiality shall be maintained.

Employees are expected to respect the privacy of messages sent to others using the County's e-mail systems. Therefore, no employee, except those authorized to do so, shall access, view, retrieve, listen to, record, tamper with, copy, change, print or delete another employee's information or communications without that employee's permission.

Limited, occasional or incidental use of the e-mail systems for personal purposes may be acceptable, if done in a professional and appropriate manner, not used on County work time, not violating prohibited activities contained in this policy and not interfering with the conduct of County business or the performance of the employee's duties. Should employees use the County e-mail systems for personal messages such messages will be treated as business messages. Employees should not use the e-mail systems for messages they wish to keep private, as the County may access these messages and they may become "public records" in accordance with the Public Records Act. Messages may be stored and are not necessarily deleted by pressing "delete".

### PROHIBITED ACTIVITIES

It shall be a violation of this policy to use e-mail to violate any existing law, regulation, County policy, departmental or personnel rule. Other prohibited uses of the County e-mail systems include, but are not limited to:

1. Activity that could subject the County to civil or criminal liability.
2. Representing oneself as a spokesperson and/or making commitments on behalf of the County or a department without authorization.
3. Usage intended for personal or commercial financial gain (e.g., advertising), or participating in any gambling, gaming or wagering activities.
4. Any use of e-mail for the purpose of distributing materials, promoting causes or beliefs, or soliciting membership in, support for or donations to any organization, group or entity including, but not limited to, those of a commercial, political, charitable or ideological nature unless officially sanctioned by the County.
5. Utilization of e-mail to distribute offensive, abusive, threatening, pornographic, and sexually explicit or hate messages or images.
6. Use of e-mail to commit illegal, fraudulent or malicious activities.
7. Originating or intentionally propagating computer viruses and/or chain letters or petitions.
8. Disclosing confidential and/or personal information without appropriate authorization or sharing County e-mail accounts or passwords to access those accounts with others.
9. Personal usage that results in any charges or other costs to the County.
10. Subscribing to external mailing lists, notification services, or other e-mail services that are not reasonably related to the performance of assigned job duties.
11. Using animation, specialized graphics or colored backgrounds in e-mails.

### ATTORNEY-CLIENT PRIVILEGED COMMUNICATIONS

Some of the messages sent, received, or stored on the County e-mail system will constitute confidential, privileged communications between the County and either its inside or outside attorneys. Upon receipt of a message either from or to counsel, do not forward its contents to others without counsel's authorization.

### ANTI-HARASSMENT POLICIES APPLICABLE

The County's policies prohibiting sexual and other harassment are applicable to the use of the County's e-mail systems. As such, employees shall not prepare, solicit, or transmit messages and images that are obscene, pornographic or sexually oriented, or that contain offensive, harassing, derogatory or disparaging comments, jokes or slurs related to race, color, ethnicity, gender, age, sex, religion, disability or political affiliation.

COUNTYWIDE E-MAIL BROADCASTS

County e-mail shall not be used to announce, advertise, or otherwise promulgate any event, cause, organization, or activity that is not an official County of San Bernardino function or program. Any use of the e-mail system to promulgate a legitimate event countywide must be requested by the agency/department head and approved by the Chief Information Officer.

RESPONSIBILITIES

Except as otherwise specified, the Information Services Department (ISD) is charged with the overall responsibility of administering this policy. Department heads are responsible for ensuring that all policy requirements are fulfilled. ISD will not respond to requests for e-mail access without written approval from either the Department Head, the Appointing Authority or County Counsel.

DISCIPLINE

Violations of this policy may be considered as a basis for disciplinary action, up to and including termination.



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POLICY MANUAL**

No. 09-02

ISSUE 1

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By

EFFECTIVE: 10/30/01

SUBJECT

ELECTRONIC MAIL (E-MAIL) RETENTION AND DESTRUCTION

APPROVED

**FRED AGUIAR**

CHAIRMAN, BOARD OF SUPERVISORS

PURPOSE

To establish policy and guidelines for County employees regarding the retention, storage and destruction of e-mail.

POLICY STATEMENT

The County provides e-mail to employees to communicate and conduct the business of the County and, in doing so, expects employees to manage and protect records resulting from e-mail communications. A systematic retention and deletion program not only eliminates obsolete documents from the e-mail system but also saves resources by not indefinitely and unnecessarily storing information beyond appropriate timelines.

POLICY AMPLIFICATION

TYPES OF E-MAIL

E-mails generally fall within the following categories:

1. Business E-mails – These are e-mails that contain information relating to the conduct of the County’s business and can be either transitory in nature or more permanent.
  - (a) Transitory E-mails – These are e-mails that have limited or transitory value to the County, and are created primarily for the informal communication of information. Transitory e-mails would include, but would not be limited to e-mails announcing the date and time of a meeting, casual and routine communications and announcements similar to telephone conversations, notes, interagency or intra-agency memoranda and preliminary drafts.
  - (b) Non-Transitory E-mails – These are e-mails that are more formal in nature and have lasting value to the County.
2. Non-Business E-mails – These are e-mails that do not contain information relating to the conduct of the County’s business. These e-mails include unofficial, personal messages.

## RETENTION REQUIREMENTS

The content of the e-mail determines the retention requirement.

1. If the content of the e-mail falls within the Business E-mails category and is Non-Transitory, then within six months of receiving or sending the e-mail, the e-mail must be stored in a special electronic file or an actual hard copy must be made and stored as would be done with any other hard-copy communication. This stored copy will then become the official “public record” and is then subject to the destruction requirements found in the County Resolution for Destruction of Records (No. 80-78). The e-mail must then be deleted.
2. If the content of the e-mail falls within the Business E-mails category and is Transitory, then the e-mail must be deleted once it has served its administrative purpose.
3. If the content of the e-mail falls within the Non-Business E-mails category, then the e-mail should be deleted immediately.

Employees may not retain e-mail messages in their electronic Inboxes or Sent boxes longer than six months. All e-mail messages located in their electronic Delete boxes must be purged on a routine basis and no longer than every 30 days.

The responsibility for compliance with this policy lies with each County employee. It is the responsibility of departmental management to develop internal procedures consistent with this policy to insure compliance.





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No. 09-03  
(supersedes 07-06)

ISSUE 4

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By

EFFECTIVE 3/23/04

SUBJECT

USE OF COUNTY TELEPHONE SYSTEMS

APPROVED

*DENNIS HANSBERGER*

CHAIRMAN, BOARD OF SUPERVISORS

POLICY STATEMENT

It is the policy of the County of San Bernardino to make effective and productive use of electronic communications devices, including telephones, and to support the deployment and use of communications technology by departments. This policy shall apply to all full and part-time employees, volunteers, contractors, and other affiliated individuals who have been provided access to the County's telephone networks and telephone services procured by the County from telephone service providers.

POLICY AMPLIFICATION

1. Definitions

Telephones - include telephone instruments, cellular telephones, and other electronic communicating equipment owned, leased, or rented by the County.

2. Use of Telephones

Significant County resources have been committed and are expended to provide telephones for use by County employees and other personnel to conduct County business and to perform their jobs. Occasional personal use of telephones is allowed, but such usage shall not violate any existing law, regulation, County policy, departmental or personnel rule. Nor shall personal use interfere with the conduct of County business or interfere with the performance of an employee's duties. Department heads may elect to prohibit the use of County cellular phones for personal use in their Department. Any toll charges incurred from personal use shall be reimbursed to the County using appropriate departmental procedures.

3. Responsibilities

Except as otherwise specified, the Information Services Department (ISD) is charged with the overall responsibility of administering this policy. Department heads are responsible for ensuring that all Policy requirements are fulfilled.

4. Disciplinary Action

Violations of this policy may be considered as a basis for disciplinary action, up to and including termination.



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EFFECTIVE 3/23/04

SUBJECT

INTERNET/INTRANET USE POLICY

APPROVED

*DENNIS HANSBERGER*

CHAIRMAN, BOARD OF SUPERVISORS

POLICY STATEMENT

It is the policy of the County of San Bernardino to make effective and productive use of the Internet and the County Intranet ("Internet"), and to support the deployment and use of Internet technology by Departments. This policy shall apply to those full and part-time employees, volunteers, contractors, and other affiliated individuals (collectively referred to as "User" or "Users") who have been provided access to the Internet by the County. Users accessing the Internet through a personal account but on County equipment are subject to this policy.

POLICY AMPLIFICATION

1. Use of the Internet

Significant County resources have been committed and are expended to provide Internet access to Users conducting County business and performing their jobs. The unrestricted use of the Internet for non-County business purposes is not permitted. Occasional personal use of the Internet is allowed when not on County work time, such use does not violate any prohibited activities contained in this policy, and such use does not interfere with County resources or the conduct of County business. **NO USER SHOULD HAVE AN EXPECTATION OF PRIVACY IN THE USE OF THE INTERNET THROUGH THE COUNTY SYSTEM OR WITH COUNTY EQUIPMENT.**

a. Authorized use

Examples of legitimate County business use of the Internet are:

- Performing essential job functions;
- Participating in job-related conferences and discussions or collaborating via resources such as web sites, newsgroups, chats, and bulletin boards;
- Performing research, obtaining information or support, or pursuing approved job-related education;
- Promoting and communicating County and other business or related information.

b. Prohibited Activity

Inappropriate use of the Internet through the County system or with County equipment is prohibited. Inappropriate use includes, but is not limited to, the following:

- Downloading, uploading, transmitting, or otherwise distributing any content that violates any existing law, regulation, County policy, departmental or personnel rule or that may be discriminatory, harassing or disruptive to other employees, including, but not limited to, any sexually explicit,

derogatory, abusive or threatening images, cartoons, jokes, or other materials, unless any of the above is required for the performance of assigned job duties;

- Downloading, uploading, using or otherwise distributing copyrighted materials without proper permission or in violation of licensing agreements;
- Participating in chat room discussions or posting to electronic bulletin boards unless doing so is a function of County responsibilities;
- Downloading or uploading unapproved games;
- Participating in any gambling, gaming or wagering activities;
- Downloading and using any software, scripting tools, or other mechanisms designed to monitor or disrupt County computing resources or subvert County security mechanisms;
- Using video and/or audio streaming and downloading technologies for non-County business purposes;
- Personal use that results in any charges or other costs to the County.

c. Monitoring Internet Usage

The County reserves the right to monitor County provided Internet access and usage. Users of the Internet do so with the understanding that their usage may be monitored. **No User should have an expectation of privacy in the use of the Internet through the County system or with County equipment.**

d. User Accounts and Passwords

Users must not share their County Internet accounts or passwords used to access those accounts with others.

e. Modem Usage

The County has taken steps to ensure the security of the County's networks. These include the installation of security devices such as firewalls, monitoring systems, and other security measures.

- i. Computers inside the County's network may not simultaneously connect to another computer on the outside of the County's network through use of a telephone line and modem. Such connections offer intruders and attackers an opportunity to bypass security mechanisms. To ensure security of the County's networks, modems should be removed or disconnected from phone lines in all personal computers and servers while connected to the County network. Computers that require modems for independent connections to outside computers, networks, or services should be stand-alone (not connected to the network) or on outbound-only telephone circuits.
- ii. Computers connected inside the County's network with modems installed may not be configured for "auto-answer".
- iii. Computers outside the County's network that require access into the County's network may do so only through use of the County's secure virtual private network (VPN).

f. Virus Protection

Users may access the Internet from County equipment only if they have appropriate virus protection software installed. Email, web sites, downloadable files, and other forms of Internet access can be used for the distribution of computer viruses and other malicious software. In order to protect County information resources, Departments must ensure that virus protection software is employed and that regular procedures are in place to ensure that virus protection software is kept up to date. Computers that access the County network via a Virtual Private Network (VPN) must have appropriate virus protection software installed.

2. Responsibilities

Except as otherwise specified, the Information Services Department (ISD) is charged with the overall responsibility of administering this policy. ISD will:

- Provide connectivity to the County's WAN for access to Internet E-mail or the World Wide Web (WWW).
- Maintain high-speed data connection to the Internet in support of County-wide Users.
- Establish and maintain the County's presence on the Internet through a County *home page*.

Department heads are responsible for ensuring that all Policy requirements are fulfilled.

3. Disciplinary Action

Violations of this policy may be considered as a basis for disciplinary action up to and including termination.



**COUNTY OF SAN BERNARDINO  
POLICY MANUAL**

No. 09-05

**ISSUE**

By

**PAGE 1 OF 1  
EFFECTIVE 6/5/2012**

OPERATION OF COMPUTER SYSTEMS

JOSIE GONZALES  
Chair, Board of Supervisors

**POLICY STATEMENT**

It is the policy of the Board of Supervisors that the County operate computer systems that will: contribute to significant operational economies; provide management benefits for the County; share appropriate common information resources with other governmental agencies; and protect the privacy and integrity of the data these computer systems maintain.

**POLICY AMPLIFICATION**

**1. General Responsibilities**

- A. All County Agencies, Departments and Board-governed Special Districts are responsible for assuring all computer systems they acquire, develop, and operate will:
  - a. Minimize impact on the County network;
  - b. Be supported in terms of maintenance, timely problem resolution, and expandability;
  - c. Fit into the County's long-range information plans; and
  - d. Support the business needs of the organization.
- B. The Information Services Department is available to assist in acquisition, development, operation, and maintenance of all County computer systems.

**DEPARTMENTS AFFECTED**

All County Agencies, Departments and Board-governed Special Districts.

**PURPOSE**

The purpose of this policy is to promote the effective and efficient use of computer systems in service to all County Agencies, Departments and Board-governed Special Districts, as well as all the people they serve.



**COUNTY OF SAN BERNARDINO  
STANDARD PRACTICE**

**No.** 09-05SP1

**ISSUE**

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**By**

**EFFECTIVE 6-5-2012**

**SUBJECT**  
OPERATION OF COMPUTER SYSTEMS – Computer  
Acquisition and Use

**APPROVED**  
Gregory Devereaux  
Chief Executive Officer

**PURPOSE**

To establish the responsibilities and procedures for planning, evaluating, purchasing, and using computers.

**DEPARTMENTS AFFECTED**

All County Agencies, Departments, and Board-governed Special Districts.

**DEFINITIONS**

For the purpose of this Standard Practice, computers are those general purpose computers - variously defined as Personal Computers, Desktop Computers, Computer Workstations, Laptop Computers, Tablet Computers, Smart Phones, and Electronic Kiosks - and the software they use.

**POLICY STATEMENT**

No. 07-08 OPERATION OF COMPUTER SYSTEMS - It is the policy of the Board of Supervisors for the County to operate computer systems that contribute to significant operational economies; provide management benefits for the County; share appropriate common information resources with other governmental agencies; and protect the privacy and integrity of the data these computer systems maintain.

**RESPONSIBILITIES AND PROCEDURES**

1. The integrity of official County data is of paramount importance to the accurate fulfillment of the County’s mission. Computers used by the County must comply with all data regulation mandates.
2. All software licensing, installation, and usage conditions should be read and understood by personnel responsible for computer acquisition and operations.
3. Computer viruses are programs that can destroy data and software without warning. In order to limit the risks posed by such viruses, the following steps should be taken by designated personnel in all County Agencies, Departments and Board-governed Special Districts:
  - a. Remain knowledgeable and current on security threats, computer viruses, and related warning signs
  - b. Make regular backups of data and software
  - c. Use Standard anti-virus software to protect the computer, and periodically examine the entire system and removable media
4. All computer usage must comply with all related County Policies and Standard Practices found in the various sections of the policy manual.
5. Agency and Department Heads
  - a. Shall insure compliance with this Standard Practice
  - b. May consult with the Information Services Department and/or the Office of Ethics and Compliance, when applicable, on acquisition and use of computers
  - c. Shall be responsible for regulations concerning their specific discipline as it relates to the acquisition and use of computers

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6. Information Services Department

- a. Shall assist Departments, Agencies, and Board-governed Special Districts in cost/benefit evaluation of computer software and hardware acquisition and use, as requested
- b. Shall coordinate with the County Purchasing Agent to negotiate the most favorable purchase agreements for acquisition of computers that can meet the requirements of this Standard Practice
- c. Shall notify all County Departments, Agencies and Board-governed Special Districts of any threats to compliance and/or new regulations governing the use of computers
- d. Shall re-evaluate this Standard Practice on an annual basis

**OTHER CONSIDERATIONS**

County Departments, Agencies, and Board-governed Special Districts using computers should develop a refresh program that will allow continuous compliance with this Standard Practice. When computers need to be replaced to remain in compliance due to changing requirements that cannot be supported, the Property Transfer Request Form should include a statement identifying all issues related to non-compliance.



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STANDARD PRACTICE**

No. 09-05SP2

**ISSUE**

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**By**

**EFFECTIVE 6-5-2012**

**SUBJECT**

OPERATION OF COMPUTER SYSTEMS –  
Periodic Review of Software Assets

**APPROVED**

GREGORY DEVEREAUX  
Chief Executive Officer

**PURPOSE**

To establish the responsibilities and procedures for Periodic Review of Software Assets to assure their continued viability in accordance with County Policy.

**DEPARTMENTS AFFECTED**

All County Agencies, Departments and Board-governed Special Districts.

**DEFINITIONS**

For the purpose of this Standard Practice, the following definitions will apply:

**SOFTWARE** – Programs that instruct a computer how to process data and documentation that explains how these programs should be used.

**ASSETS** – Tangible or intangible property owned by the County of San Bernardino that produces value or is held to have economic value.

**REVIEW** – A formal assessment, examination, and inventory, with the possibility or intention of instituting a change, if necessary.

**COMPUTER VIRUS** – Rogue software that attaches itself to software or data to cause mischief or malfunctions.

**POLICY STATEMENT**

No. 07-08 OPERATION OF COMPUTER SYSTEMS - It is the policy of the Board of Supervisors for the County to operate computer systems that contribute to significant operational economies; provide management benefits for the County; share appropriate common information resources with other governmental agencies; and protect the privacy and integrity of the data these computer systems maintain.

**RESPONSIBILITIES AND PROCEDURES**

Every County Agency, Department and Board-governed Special District shall maintain an inventory of computer systems and conduct periodic reviews, no less than annually, to address the questions below. The Information Services Department will make resources available to assist as required and requested.

As with any asset, there are associated maintenance activities, improvement projects, and end-of-life disposal and replacement considerations associated with computer systems. To assure that Software Assets are effectively and efficiently creating operational economies, providing management benefits, and are sharing appropriate common information resources, as applicable, annual reviews should be conducted to determine:

1. Is the asset fully depreciated?
2. Is the asset properly licensed?
3. Is the asset compliant with current release levels and common information resource standards?
4. Does the asset continue to effectively serve the business requirements?
5. Does the software asset pose security threats not envisioned at its acquisition? These include, but are not limited to, HIPAA (Health Insurance Portability and Accountability



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Act) compliance, PII (Personally Identifiable Information) agreements, and computer viruses.

6. Are users of the asset properly identified, trained, and do they have access appropriate to their current roles?
7. Is there appropriate software support provided by County of San Bernardino staff, vendor staff, consultants, or a mix of the above?

**OTHER CONSIDERATIONS**

Software developed by individual County Agencies, Departments, Board-governed Special Districts, or purchased from software vendors shall not be exempted from this Standard Practice. In accordance with Policy No 07-08, the Information Services Department is available to assist in acquisition, development, operation, and maintenance of any County computer system.



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POLICY MANUAL**

No. 09-06

ISSUE 1

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By

EFFECTIVE 9/9/85

SUBJECT

COMPUTER SYSTEM DATA SECURITY

APPROVED

*ROBERT O. TOWNSEND*

CHAIRMAN, BOARD OF SUPERVISORS

POLICY

The policy of the Board of Supervisors is to provide the appropriate level of security for data within the County's automated information systems commensurate with: (1) access required by County employees for official County business, (2) access required in order to service approved requests for information from the public, and (3) each individual citizen's right to privacy.

POLICY AMPLIFICATION

Data used in the conduct of the County's business is an asset of enormous tangible value. The Board of Supervisors recognizes the importance of protecting the data in the County's automated information systems. The County relies on this data in meeting its obligations to the citizens of the County.

County citizens have a right to know how well Government is meeting its public trust; on the other hand, citizens expect the County to protect information concerning them. The County must also protect its financial data from fraudulent alteration or misuse. A delicate balance must be maintain between availability and protection.

Every County employee who uses a computer or computer terminal must recognize his or her responsibility for the security and accuracy of information in that computer system. In addition, everyone who uses a computer or computer terminal of any kind must understand that any attempt to violate the security or integrity of any County computer system or computer data may result in prosecution under applicable laws.

RESPONSIBILITIES

1. The Office of Management Services (OMS) has direct responsibility for the security of the County's central computer system and oversight responsibility for security of all other County owned or operated computers, which includes:
  - a) Developing and maintaining Standard Practices to implement this Policy.
  - b) Identifying and resolving security problems associated with the use of County computers.
  - c) Providing guidance to County Managers and Departmental users in the handling of information systems security problems.
  - d) Conducting security inspections, surveys, analysis and tests of County computers to evaluate and ensure implementation of this Security Policy and related Standard Practices.

2. Ownership, and thereby authority over the use of data in the central computer system, lies with the Agency or Department originating the data. Agency or Departments will authorize what level of access to their data is to be granted to whom. OMS will implement security to control access in accordance with the access levels granted by the Agency or Department Head. The security system will restrict users to accessing only data to which they are authorized. Deliberate attempts to access unauthorized data will be recorded and may result in disciplinary action up to, and including, loss of employment and prosecution under applicable laws.
3. Except for Public User Terminals, each user of the central computer system will have a unique User Identifier and will be held accountable for all activity performed by anyone using that Identifier. To ensure that only the correct person is signing on to the computer with a User Identifier, the sign-on procedure will also require a Password used in conjunction with the User Identifier. The Password is set by the user and therefore known only to that user. Passwords will be periodically changed by the users in accordance with procedures established by OMS. Control and protection of the Password is the responsibility of the user.
4. County managers using computers not connected to the County's central computer system must accept responsibility for the security of the data on those systems. A potentially disastrous situation exists for the County if security procedures are not established and followed. Standard Practice 07-08SP1 addresses the acquisition and use of microcomputers and must be complied with. Each department is responsible for coordinating with the OMS Information system Security Officer to ensure that all aspects of computer security have been considered.
5. Physical access to computers and computer terminals in County offices must be restricted to authorized users. Computers and computer terminals should be either visually monitored by knowledgeable persons or physically secured. All County managers with computers or computer terminals in their offices will be responsible for providing physical security for those computers, terminals, and locally retained physical media on which data are stored. OMS will provide technical assistance as necessary, when requested, and will conduct periodic security reviews to assure the procedures are adequate and enforced.



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STANDARD PRACTICE**

No. 09-06SP

ISSUE 1

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By

EFFECTIVE 9/9/85

DEPARTMENT

APPROVED

SUBJECT

COUNTY CENTRAL COMPUTER SYSTEM DATA SECURITY

*ROBERT B. RIGNEY*

PURPOSE:

To establish responsibilities and procedures for protecting data assets resident on the County Central Computer System.

DEPARTMENTS AFFECTED:

All County Agencies, Departments and Board-governed Special Districts.

GENERAL GUIDELINES:

County assets in the form of computer data must be protected from unauthorized disclosure, modification, and destruction. the County Central Computer system must be secured from outside intruders, and County employee access must be restricted to authorized limits.

Security measures should consider the value of the data to be protected to both the County and to an intruder. Care must be exercised to provide adequate protection for sensitive data and to avoid the costly overprotection of low sensitivity data.

The County Central Computer System provides logical and physical protection from unauthorized access; however, access limitations are unable to control how an authorized person uses legitimately obtained data. Control of data authorized for use within a department is the responsibility of that department. This pertains to data on the computer terminal screen and data produced on paper.

The County uses a security software system to provide logical access protection to data on the County's Central Computer system. The Office of Management Services Information Systems Security Officer (OMS/ISSO) administers the security system to maintain security commensurate with the Data Classification System below.

DATA CLASSIFICATION SYSTEM

All data processed on the County's Central Computer must be classified in accordance with the following Data Classification System. Classification is based on the recommendation of the data owner described under "Responsibilities." Greater security is provided for data with higher classifications, so judgment must be exercised to provide the proper level of security.

1. Public Information: Data routinely made available to the public through news releases, public access terminals, or upon routine request.

2. Internal: Data maintained for the internal use of the County which is not normally available to the general public; however, this information may be made available upon receipt of request approved by the department head or his designated representative from the department(s) owning the data. Some financial accounting data, computer programs, technical specifications, and employee lists are examples of this classification.
3. Sensitive: Data which, if compromised, could cause harm to County government or to citizens of the County. Some details of financial accounting data (receipts and payments), welfare data, personnel/payroll data, and some court data are examples of this classification.
4. Critical: Data which, if compromised, could cause grievous harm to the County or its citizens. Criminal files, court records, computer password files, and computer operating systems files are examples of this classification.

RESPONSIBILITIES:

1. Owner

- a. All data files stored in the central computer must have a designated person as “owner.” Data files are created by computer programs for a specific County department in accordance with County Policy 07-08. the department head for which the computer program is developed is responsible for designating the “owner.” Some data files are created by more than one program, for more than one County department. These “shared” data files will have “shared” ownership.
- b. Data owners carry primary responsibility for assuring the security of the data files they own. Working through OMS, the owner will specify the data’s value and importance, classify the data in accordance with the Data Classification System above, and approve data protection controls. Data owners must approve computer program test results for programs that change any operational data. Availability of the data to other County agencies or outside entities is at the discretion of the data owner in accordance with OMS Standard and Procedures 11.2.

2. User

- a. Employees or agents who make direct use of computer data in their normal duties are called “users”. This includes, for example, people who access, add to or change data through computer terminals, people who prepare data for entry into the computer, and people who use data retrieved from the computer either in an electronic form or on paper.
- b. Users are responsible for using the County’s Computer System and data assets only for authorized County business purposes. Each person granted access to the system is responsible for all activity that takes place using his/her ID and Password combination. Access will be restricted to Read-only, Update (Change) Existing Records, Create New Records, and/or Delete Records, commensurate with the requirements of a person’s

normal duties. Access to the computer system is a privileged responsibility given to users on the basis of need. Users who abuse this responsibility may be denied access to the computer system and may be subject to disciplinary action up to and including termination as well as prosecution under applicable laws.

3. Custodians

- a. Those who have access to computer data in its various forms, not for their own use, but acting as agents for an authorized owner, are designated “custodians.” This includes OMS, couriers who pick up or deliver data, and storage site personnel who handle data outside the computer operations area.
- b. Custodians are responsible for complying with owner-approved protection controls. Custodians will use the data only for the purpose for which they are given custody. Couriers and storage custodians will not read data in their custody without written consent of the data owner. OMS staff will use the data only as necessary in developing, testing, executing, and supporting authorized computer systems programs. OMS will not explore data files for content, except at the request of the data owner. All information obtained by OMS from the County data files will be considered proprietary and protected. Data extracted from production data files for program development or testing will be accorded the same protection as the source file. Computer programmers will not change data in production data files except when a data owner requests special programming to make changes, or when a processing problem requires an immediate change to meet mandatory production schedules. Any change made without prior knowledge of the data owner must be fully documented, the data owner informed, and steps taken to prevent the problem from reoccurring.

4. Managers

- a. County personnel who have indirect control over data assets, as supervisors of employees and/or as administrators of physical assets, are designated “managers.” Managers can also be owners, users, or custodians.
- b. Managers at all levels are responsible for knowing which data assets are used by their employees, and the applicable control requirements to protect the data. Managers will specify which employees may “read” designated data files, and which employees are able to add, delete, and/or change data in the files. Managers should maintain an attitude of security awareness in their departments and provide for timely, effective response to security violations.

Security is every employee’s business. Each employee must maintain the confidentiality of County business and sensitive data to which he/she has access. Only by total cooperation of all employees can we ensure the County’s data assets are receiving the protection they require.



**COUNTY OF SAN BERNARDINO  
POLICY MANUAL**

No. 09-07

ISSUE 1

PAGE 1 OF 1

By

EFFECTIVE 07/01/00

SUBJECT

COMMUNICATIONS AND ELECTRONIC EQUIPMENT

APPROVED

*JON D. MIKELS*

CHAIRMAN, BOARD OF SUPERVISORS

POLICY STATEMENT

It is the policy of the Board of Supervisors to provide and maintain effective County communications and electronics equipment classed as Fixed Assets.

DEFINITION OF TERMS

For the purpose of this policy, the following definitions will apply:

**COMMUNICATIONS EQUIPMENT** - Includes telephone, radio telephones, microwave systems and inter-communications systems.

**ELECTRONICS EQUIPMENT** - Includes videotape equipment, wireless microphones, television and public address and audio equipment.

POLICY AMPLIFICATION

1. General Objectives

This policy shall be achieved principally through standards and assignment of central responsibility for service of communications and electronics equipment.

2. Standards

The County Administrative Officer is responsible for promulgating standards and procedures to implement this policy.

3. Administration

The General Services Agency Administrator, through the Communications Department, is responsible for the implementation and administration of central communications and electronics equipment procurement and services.



**COUNTY OF SAN BERNARDINO  
STANDARD PRACTICE**

No. 09-07SP1

ISSUE 1

PAGE 1 OF 2

By

EFFECTIVE 7/1/00

DEPARTMENT

APPROVED

SUBJECT

*WILLIAM H. RANDOLPH*

COMMUNICATIONS AND ELECTRONICS EQUIPMENT

COUNTY ADMINISTRATIVE OFFICER

PURPOSE

To establish the responsibilities and procedures for the acquisition and maintenance of communications and electronics pursuant to Board Policy No. 07-14.

DEPARTMENTS/FUNCTIONS AFFECTED

All County Agencies, Departments, and Board-Governed Special Districts.

1. COMMUNICATIONS AND ELECTRONICS EQUIPMENT ACQUISITION

A. Agencies, Departments and Board-Governed Special Districts

- (1) Request the Communications Department for technical assistance in determining the type of communications and electronics equipment needed to satisfy a requirement.
- (2) The purchase of such equipment will follow the same approval procedures for expenditures as set forth for budgeted or unbudgeted fixed assets or expense items.

B. Communications Department

- (1) Analyze the requirement to determine the most effective and efficient equipment to satisfy that requirement.
- (2) Review in-County sources for possible surplus that could satisfy the requirement.
- (3) Provide agency or departments with assistance necessary to prepare specifications and standards for requested equipment.
- (4) Maintain a record of the equipment ordered and the department ordering it.
- (5) Forward the requisition to the Purchasing Agent for purchasing action.

2. COMMUNICATION AND ELECTRONICS EQUIPMENT MAINTENANCE

A. Agencies, Departments, and Board-Governed Special Districts

- (1) Provide the Communications Department with an inventory of prescribed communications and electronics equipment.



- (2) Advise the Communications Department of any malfunctioning of prescribed communications or electronics equipment.
- (3) Forward equipment requiring repair to the location directed by the Communications Department.

**B. Communications Department**

- (1) Maintain a master inventory of prescribed County communications and electronics equipment.
- (2) Establish a preventive maintenance and inspection schedule for communications and electronics equipment. This may be done in-house or by contract with an outside facility.
- (3) Monitor performance of maintenance and inspection contractors.
- (4) Perform inspection and scheduled maintenance on equipment not on contract.
- (5) Repair malfunctioning equipment by contract or in-house.



**COUNTY OF SAN BERNARDINO  
STANDARD PRACTICE**

No. 09-07SP2

ISSUE 1

PAGE 1 OF 2

By

EFFECTIVE 7/1/00

DEPARTMENT

APPROVED

SUBJECT

*WILLIAM H. RANDOLPH*

REQUESTS FOR WIRELESS COMMUNICATIONS  
EQUIPMENT

COUNTY ADMINISTRATIVE OFFICER

PURPOSE

To establish the procedure for the acquisition, support, billing and inventory of wireless communications devices such as cellular telephones, cellular facsimile machines, Personal Communications Network (PCN) devices, etc. This Standard Practice does not apply to 2-way radio equipment and services used by agencies such as Public Safety and emergency medical providers.

DEPARTMENTS/FUNCTIONS AFFECTED

All County Groups, Departments and Board-governed Special Districts.

RESPONSIBILITIES AND PROCEDURES

A. Departments

1. Budget and obtain funding for wireless communications equipment purchases, maintenance and replacement, and ongoing service charges or fees.
2. Follow the procedures as set forth in this Standard Practice, and ISD and Purchasing practices for purchase of equipment (and installation, as appropriate) and activation/deactivation of wireless communications service.
3. Prepare "Request for Wireless Communication Service and Equipment" form (Form 800). If request is for a cellular telephone, submit to County Administrative Office for review and approval before sending to Purchasing.
4. Notify ISD in writing of changes in the assignment of equipment to departmental personnel, equipment location, and status (such as change of service provider, etc.).
5. Obtain repair and maintenance service through one of the authorized vendors.
6. Ensure that all employees make proper use of wireless communications equipment for public service purposes.
7. Coordinate activation of any donated, special funded, seized, or any other acquired wireless communication devices through ISD.

B. County Administrative Office

Review and approve/disapprove requests for cellular telephone equipment.

C. GSG-Purchasing Department

1. Prepare and conduct annual procurement bidding processes and award vendor installation, maintenance, and equipment supply contracts, in coordination with ISD.
2. Process department requests (Form 800) for wireless communications equipment purchases and service.
3. Prepare wireless communications equipment price estimate list for annual CAO Budget Call.
4. Maintain information on approved wireless communications equipment and service for departmental inquiries, in coordination with ISD.

D. Information Services Department

1. Provide technical consultation to Purchasing on vendor bid proposals for equipment and wireless communications services.
2. Maintain central inventory records of wireless communications devices based upon Form 800 data and departmental changes.
3. Make arrangements for activation of portable wireless communications devices and send copies of service-provider or other vendor forms to department.
4. Provide departments with technical consultation upon request (product information is available to departments through Purchasing).
5. Provide central accounting and billing for wireless communications charges, where applicable.
6. Administer related forms and procedures, designate service providers, and maintain activation and deactivation records, as appropriate.

E. GSG-Vehicle Services

1. Make arrangements for installation and activation of vehicle-mounted wireless communications equipment.
2. Ensure proper completion and return of Form 800 to ISD, and forward service-provider and other vendor forms to ISD and requesting department.

**SECTION 1 - REQUESTING DEPARTMENT**

DEPARTMENT \_\_\_\_\_ FAS ACCT CODES \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_ CONTACT TELEPHONE \_\_\_\_\_  
PERSON/ORG. & LOCATION EQUIP. ASSIGNED TO: \_\_\_\_\_  
CO. VEHICLE ID/PRIVATE VEHICLE MAKE \_\_\_\_\_ REQUESTED IN-SERVICE DATE \_\_\_\_\_

Contact Purchasing for information, as needed, on approved vendor equipment.

VENDOR OF EQUIPMENT AND MODEL NUMBER: \_\_\_\_\_  
EQUIPMENT DESCRIPTION:  PORTABLE/HAND-HELD  VEHICLE  OTHER \_\_\_\_\_  
TYPE (CELLULAR TELEPHONE, FAX, etc.): \_\_\_\_\_  
PURPOSE OF EQUIPMENT: \_\_\_\_\_

AREA OF USE:  SAN BERNARDINO VALLEY  HIGH DESERT  MOUNTAINS  
 WEST END  LOW DESERT  COUNTYWIDE  
 EAST VALLEY

APPROVAL: \_\_\_\_\_  
AAO/DEPARTMENT HEAD SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

Forward original request form to CAO for final approval, if for a cellular telephone.

APPROVAL: \_\_\_\_\_  
COUNTY ADMINISTRATIVE OFFICER SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

Forward original request form to Purchasing.

**SECTION 2 - PURCHASING**

SERVICE PROVIDER: \_\_\_\_\_ P.O. REF. # \_\_\_\_\_ P.R. # \_\_\_\_\_  
BUYER PLACING ORDER \_\_\_\_\_ DATE \_\_\_\_\_

Forward request form to ISD if portable wireless communications device, or to Vehicle Services if vehicle-mounted.

**SECTION 3 - VEHICLE SERVICES**

Make arrangements with vendor for installation.  
After installation of wireless communications equipment, complete the following:

VEH. # \_\_\_\_\_ EQUIP. SER. # & MAKE: \_\_\_\_\_ MOD. # \_\_\_\_\_ CELLULAR PHONE # \_\_\_\_\_  
DATE SERVICE ACTIVATED \_\_\_\_\_

PERSON COMPLETING FORM: \_\_\_\_\_ PHONE # \_\_\_\_\_

Forward completed request form and vendor forms to: ISD, 0915

**SECTION 4 – INFORMATION SERVICES DEPARTMENT**

Complete the following for non-installed wireless communications equipment:

EQUIP. SER. # & MAKE: \_\_\_\_\_ MOD. # \_\_\_\_\_ PHONE # \_\_\_\_\_ DATE SVC ACTIVATED \_\_\_\_\_  
PERSON COMPLETING FORM: \_\_\_\_\_ PHONE # \_\_\_\_\_

**Form 800 11/8/91 - Refer to County Standard Practice 09-07SP2 for information regarding this form.**



**COUNTY OF SAN BERNARDINO  
STANDARD PRACTICE**

No. 07-01 SP 1

PAGE 1 OF 2

EFFECTIVE DATE March 20, 2018

**POLICY: POLICY PROHIBITING DISCRIMINATION,  
HARASSMENT AND RETALIATION**

**APPROVED**

**GARY MCBRIDE  
Chief Executive Officer**

**SP: Procedure for Distributing Policy Prohibiting  
Discrimination, Harassment and Retaliation**

**PURPOSE**

To ensure appropriate distribution and receipt of San Bernardino County's ("County") Policy Prohibiting Discrimination, Harassment and Retaliation ("County Policy 07-01" or the "Policy").

**DEPARTMENTS AFFECTED**

Board of Supervisors, Elected Officials, all County Agencies and Departments, Board-Governed Special Districts, and Board-Governed Entities.

**DEFINITIONS**

**DFEH Pamphlet** means the California State Department of Fair Employment and Housing pamphlet entitled "Sexual Harassment: The Facts about Sexual Harassment" or other similar brochures prepared by the DFEH.

**Employee** means regular, probationary, extra help/recurrent, trainee, contract, unclassified, and public service employees, and paid interns.

**Personnel** means unpaid interns, independent contractors, volunteers and other persons providing services to or performing work on a regular basis in a County facility.

**Temporary Agency Employee** means an individual employed by a temporary staffing agency and temporarily assigned to perform work for the County.

**Appointing Authority** means the head of each Agency, Department, Board-Governed Special District, and Board-Governed Entity.

**PROCEDURES**

County Policy 07-01 must be distributed in a way that ensures Employees and Personnel receive the Policy. Every Elected Official and Appointing Authority is responsible for determining how County Policy 07-01 will be distributed and for maintaining records of its distribution and receipt by its Employees and Personnel ("Distribute").

1. Requirements of Equal Employment Opportunity Office, Human Resources Department
  - a. Distribute County Policy 07-01 to all Employees who attend the County's New Employee Orientation (NEO).
  - b. Provide a copy of the DFEH Pamphlet to all Employees who attend the County's NEO.
2. Requirements of Director of Human Resources Department
  - a. Distribute County Policy 07-01 to all members of the Board of Supervisors, all Employees and Personnel of the Board of Supervisors, Elected Officials, and each Appointing Authority.
  - b. Provide a copy of the DFEH Pamphlet to all members of the Board of Supervisors, all Employees and Personnel of the Board of Supervisors, Elected Officials, and each Appointing Authority.
  - c. If applicable, provide a copy of the Policy to Employees of the Board of Supervisors as part of their Work Performance Evaluation.
  - d. Post Federal and State posters prohibiting discrimination, harassment and retaliation in conspicuous places where they can be easily seen and read by job applicants and all members of the Board of Supervisors and their Employees and Personnel.
3. Requirements of Elected Officials and Appointing Authorities or their designee

**COUNTY OF SAN BERNARDINO  
STANDARD PRACTICE**

**No. 07-01 SP 1  
PAGE 2 OF 2  
EFFECTIVE DATE March 20, 2018**

- a. Distribute County Policy 07-01 to all Personnel and to all Employees who do not attend the County's NEO.
  - b. Provide a copy of the DFEH Pamphlet to all Personnel and all Employees who do not attend the County's NEO.
  - c. If applicable, provide a copy of the Policy as part of an Employee's Work Performance Evaluation.
  - d. Post Federal and State posters prohibiting discrimination, harassment and retaliation in conspicuous places where they can be easily seen and read by all Employees and Personnel.
4. Requirements of Director of Purchasing Department or the designee
- a. Provide copies of County Policy 07-01 and the DFEH Pamphlet to all temporary staffing agencies with whom the County contracts.
  - b. Instruct the temporary staffing agencies with whom the County contracts to disseminate the documents described in section 4.a. above, to the Temporary Agency Employees.

**LEAD DEPARTMENT**  
Human Resources



**COUNTY OF SAN BERNARDINO  
POLICY MANUAL**

No. 07-01

PAGE 1 OF 4

EFFECTIVE DATE March 20, 2018

**POLICY PROHIBITING DISCRIMINATION,  
HARASSMENT AND RETALIATION**

**APPROVED**

**ROBERT LOVINGOOD  
Chair, Board of Supervisors**

**POLICY STATEMENT AND PURPOSE**

The County of San Bernardino (County) is committed to providing an environment free of discrimination, harassment, including sexual harassment, and retaliation.

**DEPARTMENTS AFFECTED**

Board of Supervisors, Elected Officials, all County Agencies and Departments, Board-Governed Special Districts, and Board-Governed Entities.

**POLICY**

The County prohibits discrimination, harassment and retaliation by all persons involved in or related to the County's business or operations, which includes, but is not limited to: any County elected official; any employee of the County, including supervisors, managers, and co-workers; applicants; contract employees; temporary agency employees; interns; volunteers; contractors; all persons providing services pursuant to a contract, including suppliers and customers; and all other persons with whom individuals come into contact while working. Conduct does not need to rise to the level of a violation of law in order to violate this Policy.

The County prohibits and will not tolerate discrimination, harassment and/or retaliation on the basis of:

- Race
- Religion (includes religious dress and grooming practices)
- Color
- National Origin (includes language use restrictions and possession of a driver's license issued pursuant to California Vehicle Code section 12801.9 [authorizing the DMV to issue a driver's license to a person who is unable to prove that their presence in the United States is authorized under federal law])
- Ancestry
- Disability (mental and physical, including HIV and AIDS, cancer and genetic characteristics)
- Medical Condition (genetic characteristics, cancer or a record or history of cancer)
- Genetic Information
- Marital Status/Registered Domestic Partner Status
- Sex/Gender (includes pregnancy, childbirth, breastfeeding and/or related medical conditions)
- Gender Identity/Gender Expression/Sex Stereotype/Transgender (includes persons who are transitioning, have transitioned, or are perceived to be transitioning)
- Sexual Orientation
- Age (40 and above)
- Military and Veteran Status
- Any other basis protected by applicable federal, state or local law or ordinance or regulation.

These classes and/or categories are the "Protected Class(es)" covered under this Policy. For more information, visit [www.ci.sb.ca.gov/Employment](http://www.ci.sb.ca.gov/Employment).

The County also prohibits and will not tolerate discrimination, harassment and retaliation based on the perception that an individual is a member of one or more of the Protected Classes, or is associated with a person who is or is perceived to be a member of one or more of the Protected Classes.

The County also prohibits and will not tolerate retaliation against individuals who raise complaints of discrimination or harassment or who participate in workplace investigations, hearings, or other proceedings regarding a complaint under this Policy.

**1. DISCRIMINATION PROHIBITED**

The County prohibits discrimination against any employee, job applicant or unpaid intern in hiring, training, promotions, assignments, termination, or any other term, condition, or privilege of employment on the basis of a Protected Class.

Discrimination can also include failing to reasonably accommodate qualified individuals with disabilities or an individual's religious beliefs and practices (including the wearing or carrying of religious clothing, jewelry or artifacts, and hair styles, facial hair, or body hair, which are part of an individual's observance of their religious beliefs) where the accommodation does not pose an undue hardship. Individuals needing an accommodation should contact their immediate supervisor or Human Resources Officer and discuss their need(s). The County will engage in an interactive process to identify possible accommodations. Absent undue hardship, the County will reasonably accommodate employees and applicants with disabilities to enable them to perform the essential functions of a job and will reasonably accommodate the religious beliefs and practices of an employee, applicant and unpaid intern.

Pay discrimination between employees of the opposite sex or between employees of another race or ethnicity performing substantially similar work, as defined by the California Fair Pay Act and federal law, is also prohibited. Pay differentials, however, may be valid in certain situations as defined by law. Employees will not be retaliated against for inquiring about or discussing wages.

**2. PROHIBITED HARASSMENT, INCLUDING SEXUAL HARASSMENT**

The County prohibits harassment against any employee, job applicant, unpaid intern, volunteer, contractor and any other person providing services to the County pursuant to a contract.

Prohibited harassment is not just sexual harassment but harassment based on any Protected Class.

Prohibited harassment may be made in general or directed to an individual, or a group of people. Prohibited harassment may occur regardless of whether the behavior was intended to harass. Harassing behavior is unacceptable in the workplace as in all other work-related settings, such as business trips and business-related social events.

Forms of prohibited harassment include, but are not limited to, the following:

**Verbal Harassment** - derogatory jokes or comments, epithets or slurs; unwanted sexual advances, invitations, comments, posts or messages; derogatory or graphic comments; sexually degrading words; suggestive or obscene messages, notes or invitations; repeated romantic overtures, sexual jokes and comments or prying into one's personal affairs.

**Physical Harassment** - assault; impeding or blocking movement; following/stalking; unwelcome touching or any physical interference with normal work or movement when directed at an individual.

**Visual Harassment** - derogatory, prejudicial, stereotypical, sexually-oriented or suggestive or otherwise offensive text or email messages, web pages, screen savers and other computer images, online communications, social media tags and postings, posters, photographs, pictures, cartoons, notes, notices, bulletins or drawings and gestures; displaying sexually suggestive objects; staring or leering; or communication via electronic media of any type that includes any conduct that is prohibited by any state and/or federal law or by County Policy.

**Sexual Harassment** - Sexual harassment is a form of discrimination based on sex/gender (including



pregnancy, childbirth, or related medical conditions), gender identity, gender expression, or sexual orientation. Sexual harassment includes verbal, physical and visual harassment, as well as unwanted sexual advances. Individuals of any gender can be the target of sexual harassment. Sexual harassment does not have to be motivated by sexual desire to be unlawful or to violate this Policy. For example, hostile acts toward an employee because of his/her gender can amount to sexual harassment, regardless of whether the treatment is motivated by any sexual desire. Sexual harassment may involve harassment of a person of the same gender as the harasser, regardless of either person's sexual orientation or gender identity.

There are two types of Sexual Harassment:

*"Quid Pro Quo"* sexual harassment is when someone conditions a job, promotion, or other work benefit on your submission to sexual advances or other conduct based on sex.

*"Hostile Work Environment"* sexual harassment occurs when unwelcome comments or conduct based on sex unreasonably interfere with your work performance or create an intimidating, hostile, or offensive work environment. You may experience sexual harassment even if the offensive conduct was not aimed directly at you.

### 3. COMPLAINT PROCESS AND REMEDIAL ACTION

Anyone who believes they have been the subject of, becomes aware of, or observed discrimination, harassment, retaliation or other prohibited conduct, should report or make a complaint (either orally or in writing) to their supervisor, the supervisor of the offending party, a representative from the County's Equal Employment Opportunity (EEO) Office or to a Human Resources Officer as soon as possible after the incident. Individuals may bring their report or complaint to any of these individuals. Employees are not required to confront or approach the person who is discriminating against, harassing or retaliating against them. The County's EEO Office can be reached at 1-909-387-5582 (or, TDD 7-1-1). Human Resources Officers can be reached by calling the County's Employee Relations Division at 1-909-387-5564 (or, TDD 7-1-1). For more information, visit [www.sbcounty.gov/hr](http://www.sbcounty.gov/hr).

Individuals who believe they have been discriminated against or harassed, have been retaliated against for resisting or complaining about discrimination or harassment or for participating in an investigation may also file a complaint with the Federal Equal Employment Opportunity Commission (EEOC) and the California Department of Fair Employment and Housing (DFEH). The EEOC and DFEH investigate and prosecute complaints of prohibited discrimination, harassment, and retaliation in employment. The nearest EEOC office can be found by calling 1-800-669-4000 (or, TTY, 1-800-669-6820). For more information about the EEOC, visit [www.eeoc.gov](http://www.eeoc.gov). The nearest DFEH office can be found by calling 1-800-884-1684 (or, TTY, 1-800-700-2320). For more information about the DFEH, visit [www.dfeh.ca.gov](http://www.dfeh.ca.gov).

When the County receives allegations of misconduct, it will immediately undertake a fair, timely, thorough and objective investigation of the allegations that provides all parties appropriate due process. The County will reach reasonable conclusions based on the evidence collected.

The County will maintain confidentiality to the extent possible and consistent with the rights of employees under the County's Personnel Rules and relevant laws. However, the County cannot promise complete confidentiality. The County's duty to investigate and take corrective action may require the disclosure of information to individuals with a need to know.

Complaints will be:

- Responded to in a timely manner;
- Kept confidential to the extent possible;
- Investigated impartially by qualified personnel in a timely manner;
- Documented and tracked for reasonable progress;

- Given appropriate options for remedial action and resolution; and
- Closed in a timely manner

The County prohibits behavior that is or may be perceived as discriminatory, harassing and/or retaliatory. If the County determines that harassment, discrimination or retaliation or other prohibited conduct occurred, appropriate and effective correction and remedial action will be taken. The County will also take appropriate action to deter future misconduct.

Any employee determined by the County to be responsible for discrimination, harassment, retaliation or other prohibited misconduct will be subject to appropriate disciplinary action, up to, and including termination of employment. Employees who engage in unlawful harassment can be held personally liable for the misconduct.

**4. SUPERVISOR/MANAGER RESPONSIBILITY**

Supervisors and managers who are aware of or receive complaints of discrimination, harassment, and/or retaliation, even if the occurrence is not directly within their line of supervision or responsibility, must immediately report such conduct or complaint to the Human Resources Officer assigned to their department or any representative of the County's EEO Office so the County can try to resolve the complaint.

**5. TRAINING OF SUPERVISORS/MANAGERS AND ELECTED OFFICIALS**

All supervisors, managers, elected officials or other persons with supervisory authority will receive and must complete mandatory harassment prevention training as required by California law.

**6. RETALIATION PROHIBITED**

The County will not retaliate against anyone who reports an alleged violation of this Policy, files or assists another with a complaint under this Policy, causes information to be provided, participates (as witnesses or the accused) in an investigation, hearing or other proceeding regarding a complaint under this Policy or otherwise opposes discrimination, harassment or retaliation. The County will not retaliate against anyone who requests a reasonable accommodation and will not knowingly tolerate or permit retaliation by elected officials, management, employees or co-workers.

**LEAD DEPARTMENT**

Human Resources

**APPROVAL HISTORY**

Adopted June 7, 1994 (Item Number 71);

Amended January 26, 1999 (Item Number 11); December 16, 2003 (Item Number 104); August 30, 2005 (Item Number 113); March 20, 2018 (Item Number 22)

**REVIEW DATES**

MARCH 2023

SEXUAL HARASSMENT INCLUDES MANY FORMS OF OFFENSIVE BEHAVIORS

## BEHAVIORS THAT MAY BE SEXUAL HARASSMENT:

### *Unwanted sexual advances*

*Offering employment benefits in exchange for sexual favors*

*Leering; gestures; or displaying sexually suggestive objects, pictures, cartoons, or posters*

*Derogatory comments, epithets, slurs, or jokes*

*Graphic comments, sexually degrading words, or suggestive or obscene messages or invitations*

*Physical touching or assault, as well as impeding or blocking movements*

Actual or threatened retaliation for rejecting advances or complaining about harassment is also unlawful.

Employees or job applicants who believe that they have been sexually harassed or retaliated against may file a complaint of discrimination with DFEH within one year of the last act of harassment or retaliation. DFEH serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes. If DFEH finds sufficient evidence to establish that discrimination occurred and settlement efforts fail, the Department may file a civil complaint in state or federal court to address the causes of the discrimination and on behalf of the complaining party. DFEH may seek court orders changing the employer's policies and practices, punitive damages, and attorney's fees and costs if it prevails in litigation. Employees can also pursue the matter through a private lawsuit in civil court after a complaint has been filed with DFEH and a Right-to-Sue Notice has been issued.

THE MISSION OF THE DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING IS TO PROTECT THE PEOPLE OF CALIFORNIA FROM UNLAWFUL DISCRIMINATION IN EMPLOYMENT, HOUSING AND PUBLIC ACCOMMODATIONS, AND FROM THE PERPETRATION OF ACTS OF HATE VIOLENCE AND HUMAN TRAFFICKING.

## SEXUAL HARASSMENT



### Department of Fair Employment and Housing

Toll Free: (800) 884-1684

TTY: (800) 700-2320

Online: [www.dfeh.ca.gov](http://www.dfeh.ca.gov)



If you have a disability that prevents you from submitting a written pre-complaint form on-line, by mail, or email, the DFEH can assist you by scribing your pre-complaint by phone or, for individuals who are Deaf or Hard of Hearing or have speech disabilities, through the California Relay Service (711), or call us through your VRS at (800) 884-1684 (voice).

To schedule an appointment, contact the Communication Center at (800) 884-1684 (voice or via relay operator 711) or (800) 700-2320 (TTY) or by email at [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov).

*The DFEH is committed to providing access to our materials in an alternative format as a reasonable accommodation for people with disabilities when requested.*

*Contact the DFEH at (800) 884-1684 (voice or via relay operator 711), TTY (800) 700-2320, or [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov) to discuss your preferred format to access our materials or webpages.*

Sexual harassment is a form of discrimination based on sex/gender (including pregnancy, childbirth, or related medical conditions), gender identity, gender expression, or sexual orientation. Individuals of any gender can be the target of sexual harassment. Unlawful sexual harassment does not have to be motivated by sexual desire. Sexual harassment may involve harassment of a person of the same gender as the harasser, regardless of either person's sexual orientation or gender identity.

*"Quid pro quo"* (Latin for "this for that") sexual harassment is when someone conditions a job, promotion, or other work benefit on your submission to sexual advances or other conduct based on sex.

*"Hostile work environment"* sexual harassment occurs when unwelcome comments or conduct based on sex unreasonably interfere with your work performance or create an intimidating, hostile, or offensive work environment. You may experience sexual harassment even if the offensive conduct was not aimed directly at you.

The harassment must be severe or pervasive to be unlawful. That means that it alters the conditions of your employment and creates an abusive work environment. A single act of harassment may be sufficiently severe to be unlawful.

## CIVIL REMEDIES:



## ALL EMPLOYERS MUST TAKE THE FOLLOWING ACTIONS TO PREVENT HARASSMENT AND CORRECT IT WHEN IT OCCURS:

*Damages for emotional distress from each employer or person in violation of the law*

*Hiring or reinstatement*

*Back pay or promotion*

*Changes in the policies or practices of the employer*

All employers, regardless of the number of employees, are covered by the harassment provisions of California law. Employers are liable for harassment by their supervisors or agents. All harassers, including both supervisory and non-supervisory personnel, may be held personally liable for harassment or for aiding and abetting harassment. The law requires employers to take reasonable steps to prevent harassment. If an employer fails to take such steps, that employer can be held liable for the harassment. In addition, an employer may be liable for the harassment by a non-employee (for example, a client or customer) of an employee, applicant, or person providing services for the employer. An employer will only be liable for this form of harassment if it knew or should have known of the harassment, and failed to take immediate and appropriate corrective action.

Employers have an affirmative duty to take reasonable steps to prevent and promptly correct discriminatory and harassing conduct, and to create a workplace free of harassment.

A program to eliminate sexual harassment from the workplace is not only required by law, but it is the most practical way for an employer to avoid or limit liability if harassment occurs.

Distribute copies of this brochure or an alternative writing that complies with Government Code 12950. This pamphlet may be duplicated in any quantity.

Post a copy of the Department's employment poster entitled "California Law Prohibits Workplace Discrimination and Harassment."

Develop a harassment, discrimination, and retaliation prevention policy in accordance with 2 CCR 11023. The policy must:

- Be in writing.
- List all protected groups under the FEHA.
- Indicate that the law prohibits coworkers and third parties, as well as supervisors and managers with whom the employee comes into contact, from engaging in prohibited harassment.
- Create a complaint process that ensures confidentiality to the extent possible; a timely response; an impartial and timely investigation by qualified personnel; documentation and tracking for reasonable progress; appropriate options for remedial actions and resolutions; and timely closures.
- Provide a complaint mechanism that does not require an employee to complain directly to their immediate supervisor. That complaint mechanism must include, but is not limited to including: provisions for direct communication, either orally or in writing, with a designated company representative; and/or a complaint hotline; and/or access to an ombudsperson; and/or identification of DFEH and the United States Equal Employment Opportunity Commission as additional avenues for employees to lodge complaints.
- Instruct supervisors to report any complaints of misconduct to a designated company representative, such as a human resources

manager, so that the company can try to resolve the claim internally. Employers with 50 or more employees are required to include this as a topic in mandated sexual harassment prevention training (see 2 CCR 11024).

- Indicate that when the employer receives allegations of misconduct, it will conduct a fair, timely, and thorough investigation that provides all parties appropriate due process and reaches reasonable conclusions based on the evidence collected.
- Make clear that employees shall not be retaliated against as a result of making a complaint or participating in an investigation.

Distribute its harassment, discrimination, and retaliation prevention policy by doing one or more of the following:

- Printing the policy and providing a copy to employees with an acknowledgement form for employees to sign and return.
- Sending the policy via email with an acknowledgment return form.
- Posting the current version of the policy on a company intranet with a tracking system to ensure all employees have read and acknowledged receipt of the policy.
- Discussing policies upon hire and/or during a new hire orientation session.
- Using any other method that ensures employees received and understand the policy.

If the employer's workforce at any facility or establishment contains ten percent or more of persons who speak a language other than English as their spoken language, that employer shall translate the harassment, discrimination, and retaliation policy into every language spoken by at least ten percent of the workforce.

In addition, employers who do business in California and employ 50 or more part-time or full-time employees must provide at least two hours of sexual harassment training every two years to each supervisory employee and to all new supervisory employees within six months of their assumption of a supervisory position.