San Joaquin County
District Attorney's Office
Bureau of Investigations

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POLICIES & PROCEDURES MANUAL

SAN JOAQUIN COUNTY
DISTRICT ATTORNEY'S OFFICE
BUREAU OF INVESTIGATIONS

POLICIES AND PROCEDURES MANUAL

Issued to

_____
(Name)

on

_____
(Date)

_____	_____	_____	_____
(Employee's Signature)	(Date)	(Lieutenant's Signature)	(Date)

It is the responsibility of each Bureau employee to read, understand, and adhere to the Policies and Procedures Manual.

SAN JOAQUIN COUNTY
DISTRICT ATTORNEY'S OFFICE
BUREAU OF INVESTIGATIONS

POLICIES AND PROCEDURES MANUAL

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BUREAU OF INVESTIGATIONS

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(Adopted 07/11)

BUREAU OF INVESTIGATIONS
VALUES STATEMENT

Our Values:

In fulfilling the mission of the San Joaquin County District Attorney's Office, we pledge to uphold the following values:

Excellence: We value excellence in our people. We have a responsibility to encourage and develop excellence among our staff. We are committed to being community leaders.

Integrity and Professionalism: Integrity and ethical, professional behavior by all individuals associated with the Bureau of Investigations is essential in order for staff and the public to have trust in the Bureau. We hold ourselves to the highest standards to maintain integrity and public trust by following the standards as set forth by the Code of Professional Conduct for California Peace Officers and Law Enforcement Code of Ethics.

Community Service: We seek to improve the quality of life for all residents in San Joaquin County. We provide assistance and quality service while showing compassion towards those who have been victimized by crime.

Pride in Service: We are proud to hire, train, and support the most qualified staff to represent the Bureau of Investigations. We are committed to being leaders within the law enforcement community. We acknowledge our work with a sense of joy, satisfaction, and pride in doing what we have chosen to do by serving in the law enforcement profession with the San Joaquin County District Attorney's Office Bureau of Investigations.

Teamwork: We are committed to teamwork in achieving our mission by assisting federal, state and local law enforcement agencies in the investigation and prosecution of criminal cases.

(Adopted 07/11)

LAW ENFORCEMENT CODE OF ETHICS

AS A LAW ENFORCEMENT OFFICER, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the constitutional rights of all persons 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 department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I WILL never act officiously or permit personal feelings, prejudices, 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 of 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.

(Adopted 07/11)

SAN JOAQUIN COUNTY DISTRICT ATTORNEY'S MISSION STATEMENT

The mission of the San Joaquin County District Attorney's Office is our community: We are dedicated to upholding a healthy, fair and just society. We are committed to leading San Joaquin County by education, prevention, investigation, prosecution and rehabilitation, as provided by law, with justice for all.

(Adopted 07/11)

HISTORY AND AUTHORITY OF THE DISTRICT ATTORNEY INVESTIGATOR

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

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

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

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

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

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

Statutory recognition of the District Attorney Investigator as a peace officer by the State Legislature was not gained until 1952. At that time, the legislature designated the position as a limited duty peace officer. This designation remained until 1968, when the legislature granted full peace officer authority under then Section 830.3(b) of the California Penal Code. In 1977, the governor signed Senate Bill 821, which incorporated District Attorney Investigators and inspectors into 830.1 of the Penal Code. This did not, at that time, increase the peace officer authority granted to District Attorney Investigators, but brought them in with other general duty criminal peace officers under one section. In 1981, with the passage of Senate Bill 1428, the District Attorney Investigators assumed their rightful place in Penal Code section 13510, and were therefore made eligible for P.O.S.T. training costs reimbursement.

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

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

OTHER APPLICABLE AUTHORITATIVE CODES ARE AS FOLLOWS:

Penal Code, Sec. 830.1

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

Penal Code, Sec. 830.35

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

Penal Code, Sec. 13500 et al

Criminal investigators are governed by the rules and regulations set forth by the Commission on Peace Officer Standards and Training.

Penal Code, Sec. 1326

Criminal investigators have the power to issue subpoenas on their own signature.

(Adopted 07/11)

ORGANIZATION AND STRUCTURE

The Bureau of Investigations is currently staffed with personnel consisting of the Chief Investigator, four (4) Lieutenants (supervising investigators), sworn peace officer investigators, public assistance investigators, investigative assistants, and clerical support staff.

The Bureau of Investigations is comprised of the following Investigation Units, commanded by the Lieutenants.

* Mainline Investigations
* Child Abduction Team (CAT)
* Elder and Dependent Adult Abuse
* Public Integrity Unit
* Auto Theft
* Real Estate Fraud
* Auto Insurance Fraud
* Worker's Compensation Fraud
* Welfare Fraud
* In-Home Support Services Fraud
* Environmental Protection Unit (EPU)
* Consumer Fraud
* Identity Theft Prevention

(Adopted 07/11)

EXECUTIVE AUTHORITY OF THE DISTRICT ATTORNEY AND CHAIN OF COMMAND

A. The District Attorney is the chief executive officer of the Department and is the final authority in all matters dealing with the District Attorney's Office.

B. The two (2) Assistant District Attorneys are second in command.

C. The Chief Investigator answers directly to the District Attorney and is in command of his/her respective division.

(Adopted 07/11)

BUREAU OF INVESTIGATIONS
CHAIN OF COMMAND AND RESPONSIBILITIES

A. The Chief Investigator is the administrator/commander of the Bureau of Investigations. The Chief Investigator assumes responsibility for the administration of the Bureau of Investigations, direct supervision of its supervising investigators (Lieutenants), line investigators, and civilian employees. The importance of the chain of command cannot be over-emphasized and shall be strictly followed.

B. An employee shall follow the advice and direction of a Deputy District Attorney only in matters pertaining to the legal requirements and pretrial direction of a specific case. In all other matters, the Bureau chain of command shall be followed.

C. To effectively perform his/her delegated responsibilities, the Chief Investigator may appoint members of the Bureau to assist in both administration and direct supervision.

D. In the proper chain of command, each employee is responsible to the Chief Investigator through his/her supervising investigators, and/or other designees.

E. Command authority over employees of the Bureau shall follow the organizational chart except in emergency situations where it is impractical to follow the chain of command.

F. Employees temporarily assigned to a higher rank within the Bureau shall be vested with full authority and responsibility of the higher rank.

G. Employees who hold a supervisory rank within the Bureau have authority over all subordinate employees. Supervision shall be generally exercised only within the supervisor's scope of assignment except in the case of emergency or for the good of the Bureau; then the supervisor may direct or correct any subordinate employee.

H. During an emergency, or in a field situation, in the absence of a regular supervisor or his/her designee, the ranking supervisor (by seniority) shall be in command.

Seniority is the length of continuing service to the District Attorney's Office, Bureau of Investigations. Grade will take precedence over seniority on all conflicts.

I. Supervisory personnel, in addition to supervising the general and individual responsibilities of each investigator and employee, shall be responsible for:

1. Detailed inspection, supervision, and complete familiarization with all employees under their command;

2. Proper performance of duties and adherence to policies and procedures by each member of their unit;

3. Enforcement of rules, regulations, and policies among members of their unit;

4. Working closely with and providing leadership to the employees under their command.

J. An employee has the authority to carry out all his/her responsibilities. In addition, each employee shall be responsible for:

1. Proper execution of assigned duties;

2. Enforcement of laws;

3. Arrest of offenders;

4. Maintenance of discipline;

5. Maintenance of proper public relations;

6. Adherence to rules, regulations, and policies;

7. Reporting through channels any development that may unusually affect the office or the public;

8. Proper care and use of office equipment and vehicles, which shall be subject to immediate inspection.

(Adopted 07/11)

LAWFULNESS OF ORDERS

A. All orders issued by a supervisor are presumed to be lawful. No supervisor shall knowingly and willfully issue any order in violation of any law, ordinance, or departmental regulation or policy.

B. Employees shall obey orders promptly and willingly. An unlawful order by a supervisor shall not be obeyed. The employee receiving the unlawful order shall point out the unlawfulness to the supervisor for the purposes of alternative orders.

C. The failure or deliberate refusal of any employee to obey an order given by a supervisory officer of the Bureau shall be deemed insubordination. Flouting the authority of any supervisory officer by wanton disrespect or by disputing his/her orders is also insubordination. Insubordination may be cause for disciplinary action by the Bureau.

(Adopted 07/11)

EMPLOYMENT AND PROMOTIONAL STANDARDS

I. JOB DESCRIPTIONS

The Bureau of Investigations employs personnel in the following classifications:

A. Chief District Attorney Investigator

B. District Attorney Investigator III (Lieutenant) (Criminal)

C. District Attorney Investigator I, II (Criminal)

D. Investigator I, II (Public Assistance)

E. District Attorney Investigative Assistant I, II

F. Legal Technician I, II

G. Senior Office Assistant

All job descriptions are readily available in the San Joaquin County Human Resources Office or on the County website.

II. EMPLOYMENT STANDARDS

Establishing personnel employment standards and procedures is a joint function handled by the County Human Resources Director and the Bureau. Current job descriptions for all job classifications are maintained in the Human Resources Office.

III. PROMOTIONAL REQUIREMENTS

Promotions in the Bureau of Investigations are the result of standards, procedures, and minimum requirements for each position established by the Chief Investigator or designee. They are also in accordance with County and Civil Service rules and regulations.

(Adopted 07/11)

REPORTING FOR DUTY

I. DUTY TIME OF EMPLOYEES

A. Employees shall report for duty promptly and properly at the time specified by their supervisor. Any adjustments shall have prior supervisory approval.

B. All sworn investigators are peace officers vested with police powers and are considered "on duty" pursuant to 830.1 PC.

C. All public assistance investigators are peace officers during work hours as described in 830.35 PC.

D. The Chief Investigator will set the working hours to suit the needs of the Bureau. Work shifts are negotiated by labor bargaining units and the Department, and are set forth in each employee's respective bargaining unit's MOU.

E. All Bureau employees shall have an operational telephone at their residence. Employees shall report any change of telephone number or address to their supervisor within 24 hours.

II. EMPLOYEE ABSENCE

A. Injury or illness occurring to any employee in the course of Bureau employment shall be handled in compliance with federal and state laws, county ordinance, and bargaining unit MOU.

B. Employee absence due to the death or imminent death of a member of the employee's immediate family shall be allowed time with pay in accordance with the employee's bargaining unit MOU.

C. Absence without pay may be allowed upon application through chain of command to the Chief Investigator or District Attorney. The District Attorney, at his/her discretion and upon recommendation of the employee's supervisor, may grant such leave.

D. Military leave is governed by the provisions of the Military and Veteran's Code (refer to The Uniformed Services Employment and Reemployment Rights Act of 1994, Title 38, United States Code, Chapter 43).

E. Employees compelled to be absent from duty, for any reason, shall notify their supervisor, or any other Bureau supervisor or designee, as soon as reasonably possible.

F. Pregnancy time off for an employee will be governed by the employee's bargaining unit MOU.

(Adopted 07/11)

STATEMENTS, ACTS, AND PERSONAL CONDUCT OF EMPLOYEES

I. PURPOSE

A. Employees, whether on or off duty, shall be governed by the ordinary and reasonable rules of good conduct and behavior.

B. Sworn personnel shall enforce laws in a fair and impartial manner.

C. Employees shall not perform any acts, make any statements, disparaging remarks, or engage in any divisive conduct, oral or written, for publication or otherwise, which tends to:

1. Bring the Bureau or its administrative officers into dispute or ridicule;

2. Criticize the Bureau or its administrative officers in the performance of their official duties;

3. Disrupt or impair the performance of official duties and obligations of the employees of the Bureau;

4. Disrupt morale;

5. Interfere with or subvert the reasonable supervision or proper discipline of supervisory officers of the Bureau.

D. Employees shall not solicit or accept, either directly or indirectly, any gift, pass, gratuity, loan or any other thing of value; the acceptance of which could be construed to influence the actions of said employee in a police action or which could cast an adverse reflection on the Bureau or the vocation.

E. Employees shall not solicit or accept, either directly or indirectly, any special privileges by means of their position, badge, or identification card.

F. Employees shall not, for any person's gain or benefit, use their official position to circumvent the criminal justice system or a governmental entity.

G. Employees shall not act as bailor for any person in custody except relatives, and in no case where a fee, gratuity, or reward is solicited or accepted.

H. Employees shall not buy, accept, or receive any real property for personal disposition from any suspect or prisoner or from any associate of any suspect or prisoner.

I. When acting in an official capacity, employees shall refrain from suggesting or recommending any attorney or bail bondsman to any person.

J. Employees shall not reveal any information in their possession, which may enable anyone to escape detection, arrest, or prosecution, or enable anyone to destroy evidence, or destroy/secrete stolen property.

K. Employees shall not make, either verbally or in writing, an unlawful or untruthful report.

L. Employees shall arrange their personal and financial affairs in such a manner that the Bureau is not contacted by creditors, collection agencies, or similar companies.

M. Employees shall not initiate any civil actions arising out of their official duties without first notifying the Chief Investigator in writing via the chain of command.

N. Employees shall not accept any form of payment for any activity arising out of their official employment except as specifically authorized by the Bureau.

O. Employees shall not conduct personal business while on duty without the consent of their immediate supervisor.

P. Employees shall not engage in conduct which tends to disrupt the working environment of the office.

Q. Failure by an employee willfully, or through incompetence, inefficiency, or negligence, to perform the duties of their rank or assignment, may be considered "sufficient cause" for disciplinary action up to and including termination pursuant to the current provisions of the MOU of each employee's bargaining unit.

II. LEGAL ADVICE

Employees shall not give legal counsel or advice to any citizen.

III. CONTACT WITH LAW ENFORCEMENT/OFF-DUTY ENFORCEMENT ACTIVITY

A. Any employee who knowingly becomes or potentially could become the focus of any investigation or enforcement action (excluding traffic violations) by any law enforcement agency, or is questioned, detained, arrested, or issued a misdemeanor citation by a law enforcement agency shall, as soon as possible, notify their supervisor of such incident, detention, citation, arrest, etc. Supervisors receiving such information shall inform the Chief Investigator as soon as possible.

B. Any Bureau investigator who becomes involved with any off-duty law enforcement action causing them to act in their official capacity as a law enforcement officer shall notify their supervisor of such incident as soon as practical. Supervisors receiving such information shall inform the Chief Investigator as soon as possible.

(Adopted 07/11)

DRESS STANDARDS

I. POLICY

The Bureau of Investigations fosters and maintains the highest standards of professional image, conduct, and personal appearance. Personnel are expected to maintain these standards at all times except under special circumstances dictated by policy.

II. PROCEDURE

A. All personnel:

1. The clothing standard will be "business casual attire". Men shall be dressed in collared shirts and slacks. Women shall dress similarly including slacks, dress, or skirt with blouse.

2. Clothing shall be neat, clean, and in good repair. Shoes should be clean or polished and in good repair.

3. Grooming standards including makeup, jewelry, and hairstyles shall reflect a professional appearance. Hair (including facial hair) must be clean, neat, and properly trimmed.

4. Personal hygiene standards must be exemplary.

B. Sworn personnel:

1. All sworn investigators' (830.1 PC) clothing shall allow for wearing of duty firearm and other safety equipment while on duty except as prohibited by law or department policy.

2. No open toe shoes or backless sandals shall be worn.

C. Special Circumstances and Exceptions:

1. When in court or the circumstances require "business professional attire", men shall dress in a suit or coat, dress shirt, necktie, and business slacks. Women shall dress to the same appropriate level of business professional attire.

2. When assigned special activities involving known personal risk such as armed protection and escort of witnesses, or the protection of District Attorney staff, issued body armor shall be worn.

3. Dress down/street wear clothing (jeans, tennis shoes) shall only be worn with a Lieutenant's approval relating to special assignments. For example: surveillance, parole sweeps, etc.

(Adopted 07/11)

COURT APPEARANCE

A. Employees under subpoena or ordered to appear in court on any matter shall do so punctually. Requests for permission to deviate from the order of the subpoena shall be cleared with the person who issued the subpoena and/or requested the appearance in court.

B. Employees shall display professionalism while appearing in court. The employee's dress shall be professional business attire.

C. Employee response to civil subpoenas should conform to the provisions of "Civil Document Service."

D. Employees under subpoena shall be prepared to testify truthfully and know their report accordingly.

(Adopted 07/11)

DEPARTMENT OF JUSTICE AND PROPOSITION 115

I. PURPOSE

Proposition 115, the Crime Victims Justice Reform Act, was passed into law on June 5, 1990. The Act amends the State Constitution regarding criminal and juvenile cases; affords the accused no greater Constitutional rights than the Federal Constitution; prohibits post-indictment preliminary hearings; establishes the People's right to due process and speedy public trials; provides reciprocal discovery; limits the presentation of defense witnesses, and allows hearsay evidence to be presented at preliminary hearings.

II. POLICY

It is the policy of the District Attorney's Office to utilize Proposition 115 testimony of witnesses in criminal prosecutions when deemed appropriate by the Deputy District Attorney handling the prosecution.

III. PROCEDURE

When conducting an investigation where the Deputy District Attorney has determined to use Proposition 115 testimony of the Department of Justice Criminalists and Supervising Criminalists at the preliminary hearing, use the forms located in the Public Directory\Files\Forms\115 Checklists.

(Adopted 07/11)

SAN JOAQUIN COUNTY
EQUAL EMPLOYMENT OPPORTUNITY POLICY

I. PURPOSE

The County of San Joaquin maintains and promotes a policy of equal employment opportunity and is committed to maintaining a work environment that is free from discrimination. The County of San Joaquin, its managers, employees, agents, and volunteers will not discriminate against any employee, contractor, subcontractor, vendor, or client because of age, ancestry, color, creed, marital status, medical condition (cancer or genetic characteristics), national origin, physical or mental disability, political affiliation or belief, pregnancy, race, religion, sex or sexual orientation.

This policy shall apply to all employment actions including, but not limited to: recruitment, testing, hiring, training opportunities, promotion, demotion, transfer, layoff, discipline, termination, salary and benefits, and participation or appointment to all County boards and commissions. All employment decisions shall be made on the basis of individual qualifications, bona fide occupational qualifications for the job in question, and the feasibility of any necessary job accommodations.

The employment goal of San Joaquin County is to develop an employee population that is representative of the general population of San Joaquin County. To this end, San Joaquin County will encourage members of protected groups, including ethnic minorities, females, and persons with disabilities, to apply for employment. The County will take positive measures toward eliminating artificial barriers to employment and achieving equal opportunity through its continued implementation and coordination of the County's Equal Employment Opportunity (EEO) Plan, and through its review and evaluation of hiring and promotional policies and procedures.

II. REPORTING DISCRIMINATION COMPLAINTS

An employee, job applicant, contractor, vendor, or client who believes he/she has been discriminated against, as defined in Section I above, is encouraged to immediately report the complaint to the appropriate supervisor, manager, Department EEO Coordinator, department head, or to the County EEO Office. A violation of this policy will receive prompt and appropriate action.

Complaints of discrimination from employees and job applicants shall be processed in accordance with Civil Service Rule 20. Complaints from non-employees shall be handled by the appropriate department official.

Corrective action up to, and including termination shall be taken against any individual in violation of this policy.

III. RESPONSIBILITY

County department heads, managers, and supervisory personnel are responsible for implementing this policy within their areas of responsibility. Any member of County management and supervisory personnel who receive a report involving potential discrimination is responsible for recording adequate information for conducting an inquiry, and making immediate contact with the appropriate Department EEO Coordinator or County EEO Office.

This policy shall be posted within the County departments and made available to employees. Information about the process for filing employment discrimination complaints under Civil Service Rule 20 can be obtained by contacting the appropriate Department EEO Coordinator, County EEO Office at (209) 468-3374, or through the EEO Web site at http://www.sjgov.org/eeo/.

IV. RETALIATION

It is a violation of this policy to retaliate or engage in any form of reprisal because a person has raised a concern, filed a complaint of, or been a witness to discrimination. Acts of retaliation are subject to appropriate corrective action, up to and including termination. However, if the County determines that an individual intentionally provided false information regarding a complaint, corrective action up to, and including termination may be taken against the person who gave the false information.

V. TRAINING

The County of San Joaquin has implemented mandatory training to all employees on organizational policies and procedures that prohibit discrimination, including sexual harassment and cultural diversity training.

Rule 20 Discrimination Prohibited

Section 1 General Provisions

No employee of the County or any job applicant seeking employment with the County shall be discriminated against in any aspect of employment because of age, ancestry, color, creed, marital status, medical condition (cancer or genetic characteristics), national origin, physical or mental disability, political affiliation or belief, pregnancy, race, religion, sex, or sexual orientation.

Section 2 Discrimination Complaints

These procedures are intended to provide a method for resolution of complaints alleging discrimination on one or more of the basis cited in Section 1 of this Rule. Complaints that are not based on the types of prohibited discrimination cited in Section 1 shall not be processed under this Rule.

Section 3 Informal Complaint Process

The intent of the informal complaint process is to provide for early intervention and resolution of discrimination complaints in an informal manner or through a mediation process at the departmental level.

Prior to the filing of a formal complaint, an employee alleging discrimination in violation of this Rule shall report the discrimination to the Department EEO Coordinator (Coordinator). Complaints must be reported within sixty (60) days of the date the alleged discrimination occurred. A job applicant alleging discrimination under this Rule shall report the discrimination to the County Equal Employment Opportunity Office (EEO Office) within sixty (60) days of the date the alleged discrimination occurred.

The Coordinator will meet with the person making the complaint within ten (10) days of receipt of the report in order to:

A. Understand the nature of the complaint;

B. Undertake efforts to informally resolve the complaint;

C. Identify the Complainant's requested remedy; and

D. Give the Complainant a copy of Civil Service Rule 20.

The Coordinator shall notify the EEO Office of the complaint within five (5) days of the initial meeting with the Complainant.

The Coordinator will make reasonable efforts to resolve the complaint if the complaint appears to have merit. When mutually agreed to by both the Complainant and the Appointing Authority of the affected department, the Coordinator may seek the assistance of a mediator available through the San Joaquin County Mediation Center to help resolve the complaint. The Coordinator shall provide written notice to the Appointing Authority indicating whether the complaint was resolved or the specific actions recommended by the Coordinator and/or Complainant to resolve the complaint. Within ten (10) days of the receipt of the written notice, the Appointing Authority will make the departmental decision regarding any actions requested by the Coordinator and/or Complainant that are within the Appointing Authority's authority.

Within three (3) days of receipt of the Appointing Authority's departmental decision, the Coordinator shall provide written notice to the Complainant and Respondent of the results of the informal complaint process. The written notice to the Complainant shall also inform the Complainant of his or her right to file a formal written complaint if he or she is not satisfied with the results of the informal process. The Coordinator shall also notify the EEO Office in writing within three (3) days of the conclusion of the informal complaint process of the results and provide all documentation received during the course of the informal complaint process.

Unless otherwise agreed to by the Complainant and the Coordinator to extend the timeframe, the informal complaint process shall be concluded within thirty (30) days of the Coordinator's initial meeting with the Complainant.

In the case of a complaint from a job applicant, the EEO Office shall process the complaint in the manner set forth in Section 4.

Section 4 Formal Complaint Process

If a discrimination complaint is not resolved through the informal complaint process, or if the Complainant is not satisfied with the results of the informal complaint process, the Complainant may file a formal written complaint with the EEO Office within fifteen (15) days of notice of the results of the informal complaint process.

A formal complaint of discrimination shall be in writing and should be filed on the County's Discrimination Complaint form. The Complainant shall describe in detail the alleged discrimination and the action the Complainant requests to resolve the matter. The complaint must be signed and dated and shall contain at least the name(s) of the individual(s) involved, the approximate date(s) of the event(s) at issue, the names of

any witnesses to the alleged discrimination, the Complainant's requested remedy, and a description of the action(s) constituting the alleged discrimination.

An investigation will be initiated if the complaint meets the following requirements:

- The complainant alleges discrimination prohibited under Section 1 of this Rule and provides enough detailed information to determine the events constituting the discrimination.

- The complaint is filed within fifteen (15) days of the conclusion of the informal complaint process as set forth in Section 3 of this Rule.

Defective complaints shall be returned within five (5) days of receipt by the EEO Office with an explanation of why an investigation was not initiated under this Rule. If a complaint is returned because of lack of detail, the Complainant will be advised that he or she may submit an amended complaint within ten (10) days of receipt providing enough detail to determine the events constituting the discrimination.

Within fifteen (15) days of receipt of a complaint filed in accordance with this Rule, the EEO Office or designee will meet with the Complainant to review the complaint and shall notify the Respondent and Appointing Authority that a written complaint has been received and a formal investigation has begun. The investigation will be conducted in a confidential manner. If the circumstances of the situation call for such action, the Investigator will consult with the Appointing Authority regarding reasonable steps that should be taken to protect the Complainant from discrimination or retaliation during the course of the investigation.

Within sixty (60) days from the date of the initial meeting with the Complainant, or unless there is mutual agreement between the Complainant and the EEO Office to extend the timeframe of the investigation, the Investigator shall complete the investigation and shall provide a written summary of the investigation to the Complainant and Respondent. The summary will indicate whether the alleged violation of this Rule is substantiated or is unsubstantiated.

The EEO Office shall submit a post-investigation report to the Appointing Authority within the 60-day timeframe stated above. The report shall indicate whether the alleged violation of this Rule is substantiated or is unsubstantiated. If the complaint is substantiated, the EEO Office may include in the report advisory recommendations to the Appointing Authority that are designed to deter further violation of this Rule. The EEO Office will also recommend remedial or restorative action(s) that are in conformity with these Civil Service Rules, the County's Memoranda of Understanding, work rules, policies and practices.

Within ten (10) days of receipt of a post-investigation report substantiating a violation of this Rule, the Appointing Authority shall respond in writing to the EEO Office and indicate as follows:

A. Whether the Appointing Authority agrees or disagrees with the conclusion of the Investigator that the violation of this Rule has been substantiated. If the Appointing Authority disagrees with the conclusion that this Rule has been violated, he or she shall include an explanation of the reason(s) for disagreement.

B. In addition, as to each advisory recommendation, the Appointing Authority shall report one of the following actions:

1. That the recommendation has been implemented, with a summary of the implemented action.

2. That the recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

3. That the recommendation will not be implemented, with an explanation therefore, but that alternative action(s) will be taken which is designed to deter further violations of the Rule, and is in conformity with these Civil Service Rules, the County's Memoranda of Understanding, work rules, policies and practices.

4. That the recommendation will not be implemented, with an explanation therefore.

Within five (5) days of receipt of the Appointing Authority's response, the EEO Office shall provide written notice of the Appointing Authority's decision to the Complainant and shall inform the Complainant of his or her right to file an appeal before the Civil Service Commission.

Section 5 Appeal Hearing Process

If, at the conclusion of the formal complaint process set forth in Section 4 above, the EEO Office concludes (1) that the allegation of discrimination under this Rule has not been substantiated, or (2) concludes that a violation has been substantiated; however, the Appointing Authority disagrees with that conclusion and indicates that he or she will not take any or all remedial or restorative action, a Complainant shall have the right to submit a written request for an appeal before the Civil Service Commission (Commission) within fifteen (15) days of receipt of the written notification from the EEO Office of the Appointing Authority's decision.

The written appeal request shall be filed on the Commission's Request for Appeal form and shall contain the facts and circumstances of the alleged discrimination and the remedy requested by the Complainant.

The Commission may hold a hearing on the appeal. The Complainant shall be notified of the date and time of the hearing or of the Commission's decision not to hear the appeal.

The Complainant may appear personally, produce evidence, and have counsel and a public hearing. The hearing shall be informal and the Commission shall not be bound by any of the rules of evidence governing trial procedure in State Courts; provided, however, that insofar as determined practicable by the Commission, the hearing shall be conducted in accordance with the provisions of Section 11513 of the Government Code, except that the Complainant may be examined and may examine and cause any person to be examined under Section 776 of the Evidence Code. Within thirty (30) days following the completion of the hearing, the Commission shall issue a written decision that the alleged act(s) did or did not constitute discrimination prohibited under this Rule and shall provide written notice to the Complainant, Respondent, Appointing Authority, and EEO Office of its decision.

If the decision of the Commission is that the alleged act(s) constitute discrimination under this Rule, the Commission shall issue an order requiring the person who has committed the discrimination to cease and desist from such action in the future. Failure to cease and desist may constitute grounds for disciplinary action under Civil Service Rule 18. The Commission may also order appropriate remedial or restorative action(s) that is in conformity with these Rules, the County's Memoranda of Understanding, work rules, policies and practices. The Appointing Authority shall have ten (10) days from the receipt of the Commission's decision to implement said appropriate remedial or restorative action(s). The Appointing Authority shall notify the EEO Office, the Complainant and Respondent within three (3) days of the implementation of the action taken as outlined in the Commission's order.

Section 6 Retaliation Prohibited

Retaliation against an employee or job applicant for reporting an allegation of discrimination under this Rule, or against an employee for their support of such an employee or job applicant, is prohibited. However, intentionally making a false report or complaint under this Rule, or intentionally giving false statements or testimony in support thereof, may constitute grounds for disciplinary action under Rule 18 of these Civil Service Rules.

Section 7 Definitions

Appeal: A request by a Complainant made in writing to the Civil Service Commission to review the administrative determination regarding a complaint of discrimination.

Complainant: An individual who believe that he or she has been victim of discrimination.

Days: Calendar days, unless otherwise specified.

Respondent: An individual against whom a claim of discrimination is made.

(Adopted 07/11)

SAN JOAQUIN COUNTY
HARASSMENT-FREE WORK ENVIRONMENT POLICY

I. PURPOSE

San Joaquin County values each employee and strives to provide a nurturing environment where there is mutual respect and support. To foster such an environment, the County is committed to maintaining an environment that is free from harassment because of an employee's age, ancestry, color, creed, marital status, medical condition (cancer or genetic characteristics), national origin, physical or mental disability, political affiliation or belief, pregnancy, race, religion, sex or sexual orientation.

II. DEFINITIONS

San Joaquin County defines harassment as behavior that intimidates, threatens, degrades, torments, or places demands upon another, based upon one or more of the protected categories listed above, to the extent that the conduct unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Examples of harassment include, but are not limited to:

A. Verbal conduct, such as ethnic or racial slurs, epithets, derogatory or insulting comments, taunting, heckling, unwanted sexual advances or comments, racial or sexual jokes;

B. Physical conduct, such as impeding or blocking movement, gestures, unwelcome touching;

C. Visual conduct, such as derogatory or sexually oriented posters, photographs, letter or other writings, emails, cartoons or drawings;

D. Treating in a disparate manner; or

E. Retaliating for reporting harassment.

Sexual harassment is a form of sex discrimination that is prohibited under federal and state law. In general sexual harassment is defined as any unwanted sexual advance, request for sexual favors, and unwelcome verbal or physical conduct of a sexual nature.

The actions above will be considered sexual harassment when:

A. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment; or

B. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting that individual; or

C. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

III. REPORTING HARASSMENT COMPLAINTS

An employee who believes he/she has been a victim of harassment is encouraged to immediately report the complaint to the appropriate supervisor, manager, Department Equal Employment Opportunity (EEO) Coordinator, department head, or to the County EEO Office. A violation of this policy will receive prompt and appropriate action.

Complaints of harassment from employees shall be processed in accordance with Civil Service Rule 20. Complaints from non-employees shall be handled by the appropriate department official. Corrective action up to, and including termination shall be taken against any individual in violation of this policy.

IV. RESPONSIBILITY

Each employee of the County should be aware that the County is opposed to all forms of illegal harassment, including sexual harassment, and that such behavior is prohibited both by law and by County policy.

It is an employee's right to raise the issue of harassment, and managers and supervisors shall ensure that employees in their areas of responsibility are informed of their rights to a harassment-free work environment, and of the appropriate steps to take if they believe that these rights have been violated. Any member of County management and supervisory personnel who receives a report involving potential harassment is responsible for recording adequate information for conducting an inquiry, and making immediate contact with the appropriate Department EEO Coordinator or County EEO Office.

This policy shall be posted within the County departments and made available to employees. Information about the process for filing employment discrimination complaints under Civil Service Rule 20 can be obtained by contacting the

appropriate Department EEO Coordinator, County EEO Office at (209) 468-3374, or through the EEO Web site at http://www.sjgov.org/eeo/.

V. RETALIATION

It is a violation of this policy to retaliate or engage in any form of reprisal because a person has raised a concern, filed a complaint of, or been a witness to harassment. Acts of retaliation are subject to appropriate corrective action, up to and including termination. However, if the County determines that an individual intentionally provided false information regarding a complaint, corrective action up to, and including termination may be taken against the person who gave the false information.

VI. TRAINING

The County of San Joaquin has implemented mandatory training to all employees on organizational policies and procedures that prohibit discrimination, including sexual harassment and cultural diversity training.

(Adopted 07/11)

SAN JOAQUIN COUNTY
ALCOHOL AND DRUG ABUSE POLICY

The following is the full text of the San Joaquin County Alcohol and Drug Abuse Policy for all San Joaquin County employees.

6/21/91
amended 4/21/92

Preamble

The County of San Joaquin receives various federal grants. As a consequence of the federal law governing such grants, the County certifies that it will provide a drug-free workplace. As part of the provision of a drug-free workplace, the County requires each of its employees to notify the County in writing of any criminal drug statute conviction for a violation *occurring in the workplace* no later than five calendar days after such conviction. The County will notify the federal granting agency in writing within ten calendar days after receiving notice from an employee or otherwise receiving actual notice of such conviction. After having received such notice, the County will take one of the following actions with respect to any employee who is so convicted:

1. Instituting appropriate personnel action against such an employee, up to and including termination;

2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health, law enforcement or other appropriate agency.

I. PURPOSE

1.1 It is the purpose of this policy to eliminate substance abuse and its effects in the workplace. Drugs and alcohol consumption away from the job can affect job performance and employee safety. Employees must be able to perform their duties safely and efficiently, in the interest of the public and their fellow workers, as well as themselves. The use/abuse of drugs and alcohol on the job, and the influence of these substances on employees during working hours, are not consistent with this objective.

1.2 This policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of San Joaquin County managers and employees. The County will act to eliminate any substance abuse such as alcohol, illegal drugs, prescription drugs or any other substance, which could impair an employee's ability to safely and

effectively perform the functions of the particular job. All Civil Service employees should be aware that violation of the policy means that they may be disciplined subject to Civil Service Rule 18. Contract, temporary and Civil Service exempt employees may be disciplined but are not eligible for rights afforded by Civil Service Rules.

OPTIONS, the Employee Assistance Program, is available to assist employees who may have an alcohol or drug usage problem. Employees are urged to voluntarily seek confidential assistance from the Employee Assistance Program. While San Joaquin County will be supportive of those who seek help voluntarily, the County will be equally firm in identifying and disciplining those who continue to be substance abusers and who do not seek help. Alcohol and drug abuse are recognized as treatable conditions. Unless resolved, these problems repeatedly and continually interfere with an employee's ability to perform his or her job. Therefore, OPTIONS is designed to assist troubled employees. OPTIONS staff will advise employees how to access other rehabilitation services of their choice, whether it be the County health plan or other health plans.

II. POLICY

2.1 Employees shall not:

2.1.1 Be under the influence of or in possession of an unsealed alcoholic beverage container or drugs while on County property, in County vehicles, or at work locations.

2.1.2 Nor shall they utilize such substances while they are on duty or paid standby.

2.1.3 Nor shall they sell or provide drugs or alcohol to any other employee or to any person while such employee is on duty or paid standby.

2.1.4 Nor shall they have their ability to work impaired as a result of the use of alcohol or drugs.

2.1.5 The County may notify the appropriate law enforcement agency that an employee may possess illegal drugs.

2.2 An employee taking prescribed drugs which may interfere with safe work performance shall be required to provide written documentation from the prescribing physician indicating the level of interference with job performance addressed in 5.5. The employee's immediate supervisor or

department head shall determine on a case-by-case basis the employee's ability to perform employment responsibilities (see 3.2). Failure to notify a supervisor may result in disciplinary action up to and including termination. An employee may be required to provide a statement from a licensed physician, nurse practitioner or physician assistant indicating when the employee is able to work safely while taking the prescribed medication.

2.2.1 An employee who is not cleared to work shall not be permitted to work. The employee may use sick leave, accrued time off, or approved leave of absence until he or she is released by a licensed physician, nurse practitioner or physician assistant.

2.3 A supervisor observing an employee with declining work performance and exhibiting ongoing behavior which could cause reasonable suspicion of a substance abuse problem may:

2.3.3 Counsel the employee regarding areas of declining work performance and recommend the employee utilize the Employee Assistance Program;

2.3.4 Document the behavior which has given rise to the suspicion of substance abuse;

2.3.5 Inform the appropriate manager (with departmental budget authority) of the supervisor's intent to recommend substance abuse testing;

2.3.6 Inform the employee of the department's intent to utilize this policy if (a) the behavior does not change; or (b) the employee does not utilize the Employee Assistance Program.

After a manager has received training on substance abuse testing and referral, and taken all measures outlined above, he/she can direct an employee to take a test. Refusal to submit immediately to an alcohol and/or drug analysis and authorize release of test results when requested by a manager may be grounds for discipline, subject to Civil Service Rule 18.

2.4 An employee believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be directed to remain at the work site until transportation arrangements can be made.

2.4.1 Employees who insist on driving and who may be under the influence of alcohol or drugs are subject to arrest by a peace officer.

2.5 The County is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as handicapped under Federal and/or State law.

2.6 The County's voluntary Employee Assistance Program (Options-EAP) is available to assist employees who voluntarily seek help for alcohol or drug problems. Employees are encouraged to contact the EAP program directly for additional information.

III. DEFINITION

3.1 "Reasonable suspicion" is a belief based on subjective evidence sufficient to lead a reasonably prudent supervisor to suspect that an employee is under the influence of drugs or alcohol to the degree the employee's ability to perform the functions of the job is impaired.

3.1.1 Any of following, alone or in combination, may constitute reasonable suspicion:

3.1.1.1 Slurred speech

3.1.1.2 Alcohol odor on breath

3.1.1.3 Unsteady walking and movement

3.1.1.4 An accident involving County property for which the employee is determined to be at fault.

3.1.1.5 Physical altercation

3.1.1.6 Declining work performance

3.1.1.7 Possession of alcohol or unauthorized drugs

3.2 The presence of the above indicators does not determine that an employee is chemically dependent.

3.3 Managers are defined as any employee in Executive, Senior Management, Middle Management, Sheriff's Management, and Sheriff's Sergeant bargaining unit.

IV APPLICATION

This policy applies to all full, part-time, contract, and temporary employees of the County. This policy applies to all substances, drugs, or medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

V. EMPLOYEE RESPONSIBILITIES

An employee must:

5.1 Not report to work or be on paid standby while his/her ability to perform job duties is impaired due to alcohol or drug use;

5.2 Not possess or use alcohol, or illegal drugs, during working hours or while on County property;

5.2.1 Periodically, County-sponsored functions permit the use of alcoholic beverages, when specifically sanctioned by the Department Head (see San Joaquin County Work Rules, page 2).

5.3 Not directly, or through a third party, sell or provide drugs or alcohol to any person, including any employee, while either employee or both employees are on duty or on paid standby except as required in the performance of an employee's duties;

5.4 Submit to an alcohol and drug test when requested by responsible County manager, and authorize the release of results of the evaluation and/or test subject to Section 2.3 of this policy.

5.4.1 Laboratory reports and/ or test results shall not be placed in an employee's personnel file. Laboratory reports, test results and/or rehabilitation-related records shall be maintained in a separate confidential file. The confidential file shall be maintained by the Employee Assistance Program Manager in a locked secure location. The EAP program manager shall implement procedures to maintain the confidentiality of the laboratory reports and/or test results and rehabilitation documents. Laboratory reports, rehabilitation documents and/or test results shall not be released to law enforcement agencies without express written approval of the

employee. Such information shall be disclosed to other individuals only on a substantiated need-to-know basis and to the employee upon request. Such disclosure shall be documented. The employee may receive a copy of the report and may review the log upon request. In the event a test does not indicate the presence of alcohol or controlled substance, an employee, upon request, shall be given a letter indicating confirmation of such results.

It is the policy of the Employee Assistance Program to destroy all lab reports, rehabilitation documents and test results after a period of five years unless intervening referrals have been made.

5.4 If, in the course of medical treatment an employee is prescribed medication, it is the employee's responsibility to ascertain from the prescribing physician whether the medication would interfere with job performance. If the medication causes impairment, the immediate supervisor or department head will determine the employee's fitness for duty.

VI. MANAGEMENT RESPONSIBILITES AND GUIDELINES

6.1 Department heads are responsible for reasonable enforcement of this policy, maintaining confidentiality and for providing appropriate training to supervisory staff.

6.2 Managers can refer an employee to EAP for declining job performance or reasonable suspicion of chemical use. The EAP will provide assessment and referral services to appropriate treatment facilities. Supervisors are encouraged to refer employees to the EAP for intervention and rehabilitation. EAP services are confidential and supervisory referred employees are requested to sign a release of information for attendance purposes.

6.3 Drug/alcohol testing is used as a last resort after an employee refuses an EAP referral or EAP recommendations are rejected. The cost of the test(s) will be borne by the referring department. Managers may request that an employee submit to a drug and/or alcohol test when there is a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or on standby. Testing methods, procedures and laboratory procedures are arranged and managed by the Department of Health Care Services.

6.3.1 The initial screening shall be performed by a National Institute of Drug Abuse certified facility using the Immunoassay screening process where they use radioisotopes to develop antibodies (EMIT method). If the results are positive, the results will be confirmed by the gas chromatography/mass spectrometer (GC/MS method) – San Diego.

To ensure a proper chain of custody, three specimens shall be collected as follows:

One specimen shall be provided in circumstances, which maintain the integrity of the sample.

The specimen shall be divided into three containers, which shall be sealed, labeled, and initialed without the containers leaving the employee's presence.

If a specimen is deemed positive, the employee shall have the option of submitting a second sample to a laboratory of his/her choice for a testing.

Any specimen deemed positive shall be retained and preserved by the laboratory for a minimum of six (6) months or until all legal proceedings relative to the test have concluded, whichever is later.

If the employee tests positive for a substance(s) with a medically recognized usage as a prescription drug without having disclosed such usage as a prescription for the drug or a physician's (or a dentist's) statement relative to the need for such drug. The said prescription must be dated before the date of the drug screen.

If any one of the tests is negative, the entire drug test shall be considered negative.

6.4 Managers requesting an employee to submit to a drug and/or alcohol test shall document, in writing within two (2) working days, the facts constituting reasonable suspicion that the employee is intoxicated or under the influence of drugs.

6.4.1 Original document is placed in employee's departmental file and one copy given to the employee.

6.5 Where there is reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor is required to advise the employee to remain at the work site until transportation arrangements can be made to return the employee to his or her home. (See 2.5 & 2.5.1)

6.6 Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possessions of employees.

6.7 Managers shall notify department heads or designees when they have reasonable suspicion that an employee may have illegal drugs or alcohol in his or her possession, including areas such as parking areas, break rooms, etc. If the Department Head or designee concurs that there is reasonable suspicion of illegal drug possession, the Department Head or designee may notify the appropriate law enforcement agency. Reasonable suspicion is defined in 3.1 in this document.

6.8 Alcohol and drug use or abuse by employees is not always evident. Managers shall continue to monitor job performance indicators of employees and refer troubled employees the EAP for intervention of possible chemical dependency. EAP counselors will determine treatment plans and inform the referring managers.

VII. CONFIDENTIALITY

7.1 Specific treatment services provided by OPTIONS-EAP are confidential and are not released without the employee's authorization. Employees who are referred by supervisors will be required to sign a release of information to notify their supervisor of attendance. Specific information shared with EAP staff is confidential unless required by law for child abuse or threats of bodily harm.

7.2 For the purpose of this policy, alcohol and drug use or abuse by employees will be held in the strictest confidence and shared on a need-to-know basis with appropriate management supervisory and EAP staff.

(Adopted 07/11)

SAN JOAQUIN COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF INVESTIGATIONS

MANUAL OF RULES AND REGULATIONS

District Attorney Tori Verber Salazar
Assistant District Attorney Scott A. Fichtner
Assistant District Attorney Kristine M. Reed
Chief Investigator James Bojko

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(Adopted 07/11)

BUREAU OF INVESTIGATIONS

MANUAL OF RULES AND REGULATIONS

CHAPTER I

DEFINITIONS

1.1 Organizational Definitions

The following definitions will govern terminology to be used in all communications and whenever reference is made to any organizational unit. They are presented here to provide uniformity and clarification of terminology commonly used when discussing the operations and organization of the San Joaquin County District Attorney's Office, Bureau of Investigations.

1.2 County

The area contained within the limits of the County of San Joaquin.

1.3 District Attorney's Office

Shall be used to include all areas of responsibility and personnel under the control of the San Joaquin County District Attorney.

1.4 Bureau of Investigations

This term shall designate the San Joaquin County District Attorney's Office, Bureau of Investigations, and includes all subdivisions and personnel under the command of the Chief Investigator.

1.5 Bureau

The same as the Bureau of Investigations which is subordinate to the Office of the District Attorney.

1.6 Division

The first major organizational level within the San Joaquin County District Attorney's Office.

1.7 Assignment

A position, post, or a task to which a member has been charged with responsibility for performing.

1.8 Detail

Members of the Bureau of Investigations, grouped together for the purpose of accomplishing a specified mission or task.

1.9 Shift

A period of time within a 24-hour period during which members are engaged in the performance of their assigned duties.

1.10 Memorandum of Understanding (MOU)

The contractual agreement reached between the representatives of the various employee bargaining groups and the County of San Joaquin, in accordance with the "meet and confer" process concerning wages, hours, and other terms and conditions of employment in accordance with current labor laws.

1.11 Sworn Personnel

The members of the San Joaquin County District Attorney's Office, Bureau of Investigations with Peace Officer status as defined in the California Penal Code, beginning at Section 830, who have been administered the oath of office.

1.12 Civilian Personnel

"Civilian personnel" shall mean members of the San Joaquin County District Attorney's Office, not included in the term "Sworn personnel."

1.13 Temporary Employee

A position of a specified/limited duration, made necessary by seasonal workloads, special projects, or other reasons.

1.14 Appointing Authority

The San Joaquin County District Attorney or the District Attorney's authorized representative.

1.15 Member

All personnel assigned to the Bureau of Investigations, including sworn, civilian, and Bureau of Investigations volunteers.

1.16 Peace Officer Member

A sworn Bureau of Investigations member who has been administered the oath of office and who possesses the power to arrest, pursuant to Sections 830.1 and 830.6 of the California Penal Code.

1.17 Supervisor

Any member assigned by the Chief Investigator to exercise authority over, and who is responsible for overseeing the work activity of another member or group of members. Supervisors may be either sworn or civilian members.

1.18 Command Member

A sworn member who has attained the rank of lieutenant or higher.

1.19 Superior Member

A sworn member having supervisory responsibilities, either temporary or permanent, over members of lower ranking.

1.20 Ranking Member

The member having the highest grade or rank among a designate group. Members of the same grade should rank according to the date of their appointment to that grade. When two or more members are appointed to the same grade on the same date, they shall rank respectively in the order of such appointment. When two or more members are on duty together, the member of the highest rank is in command and will be held responsible. For a special detail and for a specific period, any member may be designated by the commanding member to take command without regard to rank.

1.21 Seniority

Seniority within the Bureau of Investigations is established first by rank and, secondly, by the aggregate time served in rank on a regular basis. Where a conflict occurs because of identical service or dates of appointment, the member with the highest position from which the appointments were made is deemed to be the senior. In situations requiring decision or control, where members are of equal rank, the senior member will make the decision and exercise control, unless otherwise directed by a higher ranking command or supervisory member.

(This does not, however, relieve less senior members of their responsibilities to abide by the rules and policies of the Bureau of Investigations.)

1.22 Acting in Command

A position to which a member is not ordinarily assigned, usually in a position of a higher rank. All the authority, responsibility, and duties of the higher position falls upon the acting member. A member in an acting position shall not, except in urgent cases, alter or annul the existing orders of the permanent commander without the authority of a higher commanding member.

1.23 Chain of Command

A series of administrative ranks or positions in which each has direct authority over the rank immediately below. Unless otherwise directed, all official communications of the Bureau of Investigations, requests, information, suggestions, or complaints, whether moving upward or downward, shall be confined to official channels and follow the chain of command. Each link in the chain of command shall be respected in this regard.

The chain of command within the Bureau shall be adhered to as follows:

- Chief Investigator
- Investigator III (Lieutenant)
- Investigator II
- Investigator I
- Civilian Personnel

1.24 Through Official Channels

Through the superior member in the chain of command.

1.25 Order

A command or instruction given by a superior member to a subordinate. It may be either oral or written. A “lawful order” is any written or oral directive issued by a superior member to any subordinate or group of subordinates in the course of duty which is not in violation of any law or ordinance.

1.26 Manual of Rules and Regulations

The rules and regulations which set forth a code of conduct to be followed by Bureau of Investigations members, are expressed in this manual, and are applicable to all members of the Bureau of Investigations. All existing rules and regulations, orders, and instructions in conflict with this manual are canceled.

1.27 General Order

A written order issued by the Chief Investigator which is applicable to the Bureau of Investigations. These orders shall be retained in a provided General Order Manual or on a Compact Disc and are effective until canceled or revised. A "Bureau of Investigation General Order" establishes the policy and/or procedure of the Chief Investigator in dealing with a specific subject.

1.28 Divisional or Sectional Order

An order issued by the commanding member of a division or section, directed to a subordinate, which dictates policy and procedure for that particular division or section.

1.29 Special Order

A written order issued by the Chief Investigator or any commanding member of a division or section directed to any person or group within the Bureau of Investigations to accomplish any one of several short-term objectives. Copies of the orders are to be made available to all members who are affected by them. These orders generally become obsolete when their objective has been accomplished, upon an assigned cancellation date, or when incorporated into a General Order.

1.30 Informational Bulletin

A written bulletin issued at the Bureau of Investigation, consisting of, but not limited to, memoranda, suggestions, or announcements.

1.31 Report

An oral or written communication. Reports shall be submitted promptly in the manner prescribed by Bureau of Investigations procedures. Particular care shall be taken in their preparation to assure accuracy and thoroughness as well as proper usage of language, punctuation, and spelling.

1.32 Rule

A rule is a specific prohibition or requirement that is stated to prevent deviation from policy or procedure.

1.33 Policy

Policy consists of principles and values which guide the performance of a Bureau of Investigations activity. Policy is not a statement of what must be done in a particular situation; rather, it is a statement of guiding principles which should be

followed in activities which are directed toward the attainment of Bureau of Investigations objectives.

Policy is formulated by analyzing objectives and determining through research those principles which will best guide the Bureau of Investigations in achieving its objectives. Policy is based upon law enforcement ethics and experience, the desires of the community, and the mandate of the law.

Policy is articulated to inform the public and Bureau of Investigations members of the principles which will be adhered to in the performance of the law enforcement function. Additionally, policy establishes operational standards to assist Bureau of Investigations members in the necessary exercise of discretion in discharging their responsibility.

A member in the performance of their duty is confronted with an infinite variety of complex situations which require peace officer action. Since policy is objective rather than situation-oriented, it is broad enough in scope to encompass most situations. Policy, therefore, is stated in general terms.

1.34 Procedure

A procedure is a method of performing an operation or a manner of proceeding on a course of action. It differs from policy in that it directs action in a particular situation to perform a specific task within the guidelines of policy. Both policies and procedures are objective-oriented; however, policy establishes limits of action while procedure directs response within those limits.

1.35 Public Service

Often, the public and the District Attorney's Office rely upon the Bureau of Investigations for assistance.

Conducting investigations, protecting members of the District Attorney's Office from harm or threat, serving subpoenas, assisting the courts, enforcing certain laws, and providing for other miscellaneous needs are services provided by the Bureau of Investigations. To satisfy these requests, the Bureau of Investigations responds to calls from the District Attorney's Office and renders such aid or advice as needed or indicated by the situation.

1.36 Bureau of Investigations Mission Statement

The San Joaquin County District Attorney Mission Statement, applicable to the Bureau of Investigations, reads as follows:

"The District Attorney's Office is committed to serving this County responsibly by prosecuting criminal acts aggressively and fairly. We seek to protect the law-abiding and create a safer environment in which our population may live and prosper."

1.37 Beginning of Day and Week

The Bureau of Investigations day, for record purposes, shall begin at 0001 hours and shall conclude at 2400 hours. Any exception to the day and week established for record purposes will be in the form of a written directive.

1.38 Duty

Any action required by one's position, or by ethical or legal considerations.

1.39 On Duty

The state of a member during the shift, or detail, when they are responsible for performing regular and assigned duties.

1.40 Tour of Duty

The shift, or detail when an individual is on duty.

1.41 Incompetency

The failure to demonstrate adequate qualifications or the ability to satisfactorily perform assigned duties.

1.42 Sick Leave- Defined

The period of time during which a member of the Bureau of Investigations is excused from active duty by reason of illness or injury which is not service connected, in accordance with current Bureau of Investigations policy.

1.43 Military Leave

A leave of absence to serve in any of the recognized branches of the military service in accordance with current Civil Service regulations.

1.44 Bereavement Leave

The leave granted by the Chief Investigator with the approval of the District Attorney, in the case of a death in the immediate family as defined by County policy. This benefit is not automatically granted and does not apply during leave without pay, suspension, or Workers' Compensation leave.

1.45 Leave of Absence

That leave granted for an extended period during which a member is excused from active duty and during which they receive no pay. Such leave is granted in accordance with the approval of the District Attorney, current Memorandums of Understandings, and Civil Service regulations.

1.46 Vacation

The annual leave earned by eligible members of the Bureau of Investigations. All eligible members are entitled to a vacation in accordance with the terms set forth in the applicable Memorandum of Understanding. Vacation will be arranged by the respective commanding members.

1.47 Plurality of Words

The singular includes the plural and the plural includes the singular.

1.48 Immediately

The term “immediately” is to be construed to mean “as soon as possible and practical.”

1.49 Shall, Will, Must and May

“Shall, will, and must” are mandatory, and “may” is permissive. “Shall, will, or must” indicates that the action required is mandatory. “May” indicates that the action is permissive.

1.50 Minor or Juvenile

Any person under the age of 18 years.

CHAPTER II

AUTHORITY AND COMMAND

2.1 Bureau of Investigations Authority

The Bureau of Investigations is authorized under the authority of the San Joaquin County District Attorney and its sworn members derive their peace officer powers in accordance with the Penal Code of the State of California.

2.2 Organization

The Bureau of Investigations shall consist of a Chief Investigator and such other members as the District Attorney may, from time to time, prescribe.

2.3 Bureau of Investigations Responsibility

The Bureau of Investigations, under the control, management, and direction of the Chief Investigator, shall enforce local ordinances, laws of the State of California, and the laws of the United States. The Bureau of Investigations shall further execute all proper orders and processes which are duly issued by courts of competent authority and accomplish such additional duties as are essential for the protection and well-being of the community as directed by the District Attorney of San Joaquin County.

2.4 Operational Control

The Bureau of Investigations is established on a command structured basis, with the authority descending from superior to subordinate and responsibilities ascending from subordinate to superior. The line of command in the Bureau of Investigations is divided into three collateral classifications:

(1) Executive or Command Authority
(2) Investigative Authority
(3) Functional or Staff Authority

2.5 Chief Investigator- Authority

The Chief Investigator works under the direction of the District Attorney and the Assistant District Attorneys. The Chief Investigator is the chief executive member of the Bureau of Investigations in all matters of policy, operations, and discipline. The Chief exercises all the lawful powers of that office and issues such lawful orders and directives as are necessary to ensure the effective performance of the Bureau of Investigations.

2.6 Chief Investigator- Responsibility

The powers and duties of the Chief Investigator are:

Subject to the approval of the District Attorney, the Chief Investigator shall direct and supervise the personnel of the Bureau of Investigations and have charge of the property and equipment thereof. In addition, the Chief Investigator shall have the following duties: full power to detail any member or member of the Bureau of Investigations to such public service as may be necessary; recommend in writing to the District Attorney that disciplinary action be taken against members of the Bureau of Investigations when in the judgment of the Chief Investigator, it is deemed necessary, stating reasons therefore, and shall immediately file a copy of said recommendations with the District Attorney in accordance with County personnel rules.

2.7 Authority to Adopt Policies and Procedures

The Chief Investigator shall have the authority to adopt policies and procedures for the administration of the Bureau of Investigations. This authority shall include fixing duties and providing for their enforcement, and prescribing penalties for violations for such directives, policies, or procedures.

2.8 Policy and Procedure Changes

Policies and procedures and written orders shall not be canceled, amended, or issued without the approval of the Chief Investigator or the Chief's designee.

2.9 Chief Investigator (Acting)

In the case of absence or disability of the Chief Investigator for an extended period of time, a commanding member of the Bureau of Investigations designated by the District Attorney shall perform the duties and exercise the powers of the Chief Investigator.

2.10 Commanding Member- Authority

Commanding members have responsibility and accountability for every aspect of their command. Commensurately, within policy guidelines and legal constraints, they have the authority to coordinate and direct assigned personnel and other allocated resources in achieving organizational objectives. In so doing, they must perform the full range of administrative functions, relying upon policy, direction, training, and personal initiative to guide their command in achieving the highest level of performance possible.

2.11 Command Responsibility

Subject to direction from the Chief Investigator and Assistant Chief Investigator, commanding members have direct control over all subordinates within their command.

In addition to the general and individual responsibilities applicable to all members, a commanding member is responsible for the following:

Command- Directing and controlling members under their command to assure the proper performance of duties and adherence to established rules and regulations, policies and procedures. Providing for continuation of command and/or supervision in their absence.

Loyalty and *Esprit de Corps*- Developing and maintaining *esprit de corps* and loyalty to the Bureau of Investigations.

Discipline and Morale- Maintaining discipline and morale within the command, and investigating personnel complaints not assigned elsewhere.

Interdivisional Action- Promoting harmony and cooperation with other units of the Bureau of Investigations and the rest of the District Attorney's Office. Initiating proper action in cases not regularly assigned to their command when the delay necessary to inform the proper unit might result in a failure to perform a duty.

Organization and Assignment- Properly organizing and assigning duties within their unit to assure proper performance of Bureau of Investigations functions and those of their command.

Reports and Records- Preparing required correspondence, reports, and maintenance of records relating to the activities of their command. Assuring that

information is communicated up and down the chain of command as required.

Maintenance- Assuring that work stations, equipment, supplies, and material assigned to their command are correctly used and maintained.

Commendations- Assuring that acts of heroism and outstanding performance receive proper recognition.

Training- Recognizing the training needs of subordinates and reporting the same to the appropriate commanding member(s).

Communication- Ensuring that proper communications are made relative to priority matters to the affected personnel, and proper notifications to other members of the District Attorney's Office relative to matters of importance and concern.

2.12 Supervisory Authority and Responsibilities

Supervisors are members in charge of one or more members. Command Staff may also serve as Supervisors along with their managerial duties.

Civilian supervisors have the same authority over their subordinates, within the chain of command, that sworn supervisors have.

In addition to the general and individual responsibilities of all members, each supervisor is specifically responsible for the following:

Supervision- During their tour of duty, supervisors must supervise the activities of their subordinates, making corrections where necessary and commanding where appropriate.

Leadership- Effective supervision demands leadership. The provision of leadership shall include providing job training and development for subordinates, helping to guide and inspire subordinates to achieve team and organizational goals, and creating a positive work environment.

Direction- Supervisors must exercise direct command in a manner that assures the good order, conduct, discipline, and efficiency of subordinates. Exercise of command may extend to subordinates outside the usual sphere of supervision if the law enforcement objective or integrity of the Bureau of Investigations so requires.

Enforcement of Rules- Supervisors must enforce Bureau of Investigations rules and regulations and ensure compliance with Bureau of Investigations policies and procedures.

Inspection- Supervisors are responsible for inspection activities, personnel, and equipment under their supervision and initiating appropriate action in the event of a failure, error, violation, misconduct, or neglect of duty by a subordinate.

Knowledge of Conditions- Supervisors have a duty to become familiar with conditions which affect the work of their subordinates. Supervisors will take appropriate measures to correct adverse conditions and inform their superiors as necessary.

Training- Supervisors will ensure that subordinates are given practical assistance and training in the discharge of their duties. Supervisors will recognize training needs of their subordinates and will bring this to the attention of their superiors.

Knowledge of Subordinates' Performance- Supervisors will appropriately observe the work of their subordinates and be prepared to evaluate it accurately for their superiors in as much detail as required. Supervisors will prepare a written report to their superiors of the conduct of a subordinate which may fall into the following categories:

-Misconduct
-Unfitness
-Exceptional or Outstanding Work
-Recommendations for Awards

Report Review- Supervisors will strive to maintain a high level of quality in reports generated by subordinates, by ensuring that reports by subordinates are submitted in a timely manner and within established Bureau of Investigations guidelines.

Morale- Supervisors will take positive steps to create and maintain high morale and a spirit of service among subordinates.

Equal Employment Opportunity- All supervisors have the ultimate responsibility for assuring a nondiscriminatory work environment. Supervisors will report complaints concerning discrimination, take appropriate action, and provide any assistance as may be required in investigating.

Personnel Investigations- All supervisory personnel will thoroughly familiarize themselves with the provisions and procedures outlined in the Bureau of Investigations' Personnel Complaint Policy.

2.13 Investigative Authority

Members of the Bureau of Investigations, when detailed to a criminal investigation or other assignment, will take charge as appropriate. Members will work cooperatively with the prosecuting attorneys, other law enforcement, and other associated allies. Any conflicts or concerns will be reported to a supervisor as soon as practical.

CHAPTER III

DUTY AND CONDUCT

3.1 Knowledge of Laws and Regulations

Every member will establish and maintain a working knowledge of all pertinent laws and ordinances, as well as Bureau of Investigations policies and procedures. Members will become thoroughly familiar with the Bureau of Investigations Manual of Rules and Regulations. In the event of improper action or breach of discipline, it will be presumed that the member was familiar with the law, rule, or policy in question.

3.2 Obedience to Laws, Rules, and Regulations

Members shall not, whether on or off duty, negligently, knowingly, or intentionally commit any act which results in the commission of a criminal act or violates any law or Bureau of Investigations policy, rule, regulation, or procedure.

3.3 Unbecoming Conduct

Members shall not engage in any conduct or activities on or off duty that reflect discredit on the members, tend to bring the Bureau of Investigations into disrepute, or impair its efficient and effective operation.

3.4 Truthfulness

A. Bureau of Investigations members shall be accurate, complete, and truthful in all matters.

B. No member shall knowingly make false statements to superior members when questioned or interviewed.

C. No member shall falsely make any type of official report, either orally or in writing, or knowingly enter or cause to be entered any inaccurate, false, or improper information on the books, records, reports, or registers of the Bureau of Investigations.

3.5 Conduct Toward the Public

All members of the Bureau of Investigations shall conduct themselves toward the public in a civil, courteous, and professional manner that will foster public respect, cooperation, and a community partnership. Members shall respect and protect the rights of the public and shall perform in a manner consistent with the

principles outlined in the Bureau of Investigations' Mission Statement.

3.6 Conduct Toward Fellow Members

Bureau of Investigations members shall conduct themselves in a manner that will foster cooperation among all members of the District Attorney's Office, show respect, courtesy, and professionalism in their dealings with one another.

Members shall not use language or engage in acts that demean, harass, or intimidate another person.

3.7 Ridicule/Criticism of the Bureau of Investigations

Members shall not publicly criticize or ridicule the Bureau of Investigations, its policies, or other members orally, in writing, or in any other manner where such expression:

a. is defamatory or made with reckless disregard for the truth
b. is obscene
c. is unlawful
d. tends to impair the operation of the Bureau of Investigations by interfering with the ability of supervisors to maintain order

3.8 Obedience to Orders

Bureau of Investigations members shall obey all lawful orders from superiors and shall complete their orders or assignments in a reasonable amount of time and/or by the established deadline.

A. Should any member be given an order which is in conflict with any previous order or direction, the member shall call the conflict to the attention of the person giving the order. If the superior requires that the order still be carried out, the member shall comply, and the responsibility shall rest with the superior member taking such action.

B. No member is required to obey any order which is contrary to the laws of the United States, the State of California, or the ordinances of the County of San Joaquin. Such refusal to obey, however, is the member's responsibility, and the member shall be required to justify their actions.

C. Members who are given orders they feel are unjust or contrary to the rules and regulations or established policy must first obey the order to the best of their ability, and then proceed to appeal.

D. Members may appeal for relief from orders which they believe to be unjust or improper. Such appeals shall be made in writing to higher authority through

official channels. The member appealing the order is responsible for justifying the appeal. Frivolous, irresponsible or capricious appeals will be considered misconduct.

E. A command member shall not knowingly issue any order which is in violation of any law, ordinance, Bureau of Investigations order, or rule.

3.9 Insubordination

The failure or deliberate refusal of any member to obey a lawful order given by a superior member shall be deemed insubordination. Flouting the authority of the superior member by manifest disrespect or by disputing their orders as well as disrespectful, mutinous, insolent, or abusive language or conduct towards a supervising member is also insubordination and in violation of Bureau of Investigations rules.

3.10 Dereliction of Duty

All members of the Bureau of Investigations shall perform their duties as required or directed by law, Bureau of Investigations rule, policy, or order. The improper performance of or failure to perform a required duty, or neglecting assigned duties to conduct unauthorized activities, shall be deemed dereliction of duty.

3.11 Assistance to Members

Any member who fails to take effective law enforcement action or who fails to aid and protect a fellow member in a time of danger or under circumstances where danger might reasonably be impending, except when actually incapacitated, is deemed to be a dereliction of duty.

3.12 Communicating with Superior Members

Members shall adhere to the Bureau of Investigations' chain of command when officially and formally communicating within their assigned duties. Such communications shall be made through the official channels within the member's own chain of command. When the information to be forwarded or the complaint to be referred is of such a nature that it must be brought to the immediate personal attention of the Chief Investigator, the member may bypass official channels and contact the Office of the Chief Investigator. Such member may, however, be required to justify this departure from established procedure.

3.13 Use of Alcohol

Members shall not drink intoxicating beverages while on duty, except as required in the performance of their duty or while acting under proper and specific orders

from a superior. Members shall not appear for duty or be on duty while under the influence of intoxicants or with an odor of intoxicants on their breath, except as required in the performance of their duty.

Members who, while off duty, consume intoxicating beverages to such an extent that it results in a level of impairment, intoxication, or obnoxious or offensive behavior which discredits the Bureau of Investigations, violates the law, or renders them unfit to report for their next regular tour of duty, are subject to disciplinary action.

No alcoholic beverages shall be served or consumed on District Attorney public premises or in vehicles owned by this County.

3.14 Use of Drugs

Members shall not use any controlled substances, narcotics, or hallucinogens, except when and in the manner prescribed by a physician or dentist prior to reporting for duty. Members must report the use of any such substance that may impair their ability to perform their duties.

3.15 Use of Tobacco

While on duty, a member shall not use a tobacco product unless in a designated area and while not conducting official business in public view. Additionally, members are not permitted to use tobacco products in a vehicle owned or maintained by the County.

3.16 Gambling

No games of chance, stakes, or wagers shall be played in violation of any law by any member of the Bureau of Investigations, except as necessary in the performance of official duties.

Members shall refrain from all forms of legalized gambling while on duty, except as necessary in the performance of official duties.

3.17 Gifts and Gratuities

Members shall not use their authority or position:

a. for financial gain
b. for obtaining or granting privileges or favors not otherwise available to them or others as private citizens
c. to avoid the consequences of illegal acts for themselves or for others
d. to barter, solicit, or accept any goods, services, or other gratuity (including gifts, discounts, rewards, loans, or fees) whether for the member or for

another.

Members shall not solicit or accept contributions for the Bureau of Investigations or for any other agency, organization, event, or cause without the express consent of the Chief Investigator or the Chief's designee.

3.18 Indebtedness

Members shall keep their personal finances in order so as not to affect their on-duty performance or bring discredit or embarrassment upon the Bureau of Investigations.

3.19 Giving Assistance to Criminals

Members shall not communicate in any manner, directly or indirectly, any information which may enable persons suspected or guilty of criminal or quasi-criminal acts to escape arrest or punishment or which may enable them to dispose of or secrete any money, goods, or other valuables unlawfully obtained, or withhold any evidence of unlawful activity.

3.20 Prisoner/Suspect- Availability of Weapons

Members shall not place weapons or objects adaptable for use as weapons and capable of inflicting serious bodily injury, or permit such weapons or objects to remain unattended in any locations which may be accessible to a prisoner or suspect.

3.21 Responding to Assist

Members shall respond without delay to all calls for assistance from superiors or other members within the guidelines established by current Bureau of Investigations policy.

3.22 On-Duty Case Involvement & Investigations- Conflict

Members shall not handle cases involving their relatives, personal friends, or neighbors without express permission of a supervisor.

3.23 Law Enforcement Action Based on Legal Justification

What is reasonable in terms of appropriate law enforcement action or what constitutes probable cause varies with each situation. Different facts may justify either an investigation, a detention, a search, an arrest, or no action at all. The requirement that legal justification be present imposes a limitation on a member's actions. In every case, a member must act reasonably within the limits of authority as defined by statute and judicial interpretation, thereby ensuring that

the rights of both the individual and the public are protected.

3.24 Use of Force

While recognizing the need to demonstrate authority and control over criminal suspects and prisoners, Bureau of Investigations members shall adhere to the Bureau of Investigations' Use of Force policy, including the requirement to report the force used on or off duty, and shall observe the civil rights and protect the well being of those in their charge.

3.25 Searching of Prisoners

The searching of prisoners shall be in accordance with Bureau of Investigations policy and current law.

3.26 Treatment of Prisoners

Prisoners shall be treated in a fair and humane manner at all times, as provided by law. They shall not be subjected to physical force other than as may be required in subduing violence or assuring detention.

3.27 Giving Name and Shield Number

Members will give their name and shield number in a courteous manner to any person so requesting. This shall not apply during an undercover mode or where there are sound law enforcement or investigative reasons for not doing so.

3.28 Citizen Complaints

Members shall be attentive to complaints by citizens and shall adhere to Bureau of Investigations policies and procedures regarding the acceptance of citizen's complaints and the complaint investigative process.

3.29 Misconduct Observed by Bureau Personnel

Whenever any Bureau of Investigations member observes or is informed of the misconduct or possible criminal activity of another member of the District Attorney's Office, they shall take authorized and necessary action, which includes the proper reporting, in accordance with Bureau of Investigations policies and procedures.

A member who is assigned an investigation of an alleged act of misconduct on the part of a member of the District Attorney's Office shall conduct a thorough and accurate investigation, and report the findings of the investigation in accordance with the existing policy.

3.30 Report of Suspected Criminal Involvement

Members who are arrested, cited, or come under investigation for any criminal offense in this or another jurisdiction shall report this fact to a superior as soon as possible.

3.31 Statement During Bureau of Investigations Matters

Every member of the Bureau of Investigations who, when so directed by competent authority, refuses to answer questions or render statements material and relevant in any Bureau of Investigations matter will be subject to disciplinary action.

3.32 Knowledge of Information and Crime Bulletins

Members shall acquaint themselves, daily, when on duty and immediately upon returning from an absence, with the various crime bulletins, Informational directives and Special Orders, and electronic messages which are pertinent to themselves or their assignment.

3.33 Maintenance of Manuals

All members issued manuals or compact discs (Manual of Rules & Regulations, General Order Manual, etc.) are responsible for their maintenance and will keep their materials current and up to date.

3.34 Information Concerning Duties

Members of the Bureau of Investigations who are in doubt as to the nature or details of their assignment shall seek such information from their immediate supervisor. Failure on their part to do so, resulting in improper performance or omission of their duty, may result in disciplinary action.

3.35 Reporting Illness or Injury

Members scheduled for duty, who will not be able to report at the designated time due to illness or injury, shall promptly make such reports as are required by the appropriate General Order.

Members will adhere to the Bureau of Investigation's Sick Leave Policy and attendance guidelines.

No member shall feign sickness or injury or deceive a representative of the Bureau of Investigations or County as to their real condition.

3.36 Daily Briefings

All members, unless otherwise directed, shall present themselves at daily briefings at the time and place specified. They shall be properly attired and equipped. Members will remain at briefings until officially dismissed.

3.37 Punctuality

All Bureau of Investigations members shall be punctual in reporting for duty at the time and place designated by their supervisor or as indicated on Bureau of Investigations schedules.

3.38 Personal Appearance

While on duty, all members shall be neat and clean in person, with clothes clean and pressed, except where duties require otherwise. Members will adhere to the dress requirements outlined in the Bureau of Investigations' dress code policies.

3.39 Physical Fitness for Duty

Sworn members shall maintain good physical condition so they can handle the strenuous physical contacts often required of a law enforcement member.

3.40 Specific Assignments not Exclusive Duty

Notwithstanding the fact that a member may be detailed to specific duties, the member is not considered relieved from taking proper Bureau action when the occasion requires it.

3.41 Emergency Duty

Members off duty shall report for duty promptly or in compliance with the directive given them upon the receipt of notification that an emergency situation exists.

3.42 Remaining on Duty Until Relieved

In relevant situations, all members of the Bureau of Investigations are to remain at their post and duty until properly relieved by another member, employee, or until officially dismissed by a superior member.

3.43 Maintenance of Communications

Members on duty, or when officially on call, shall be directly available by normal communications or they shall keep their office, or their supervisor, informed of the means by which they may be reached when not immediately available.

3.44 Cooperation with the News Media

Members shall extend courtesy to the working news media and will adhere to Bureau of Investigations policies and procedures relative to the release of information and media access to incident scenes.

Whenever any member is of the opinion that it would be contrary to sound law enforcement or investigative practice or procedures to permit access to a crime scene, or release of information, and there is a conflict of opinion on whether to allow access or release information, that member shall refer the media to their immediate supervisor for further decision.

3.45 Cooperation with Other Agencies

Members shall cooperate with all law enforcement agencies, other government agencies, and public service organizations, and shall give aid and information as such organizations may be entitled to receive, consistent with Bureau of Investigations orders and state law.

3.46 Law Enforcement Service Off Duty

Unless reasonable circumstances dictate otherwise, sworn members, while off duty and in the County of San Joaquin, shall perform necessary law enforcement service whenever or wherever they are aware of a serious criminal offense or a present threat to life. When there is no urgent or immediate need for law enforcement action, they shall call for services of members on duty or the local police or sheriff's department.

3.47 Carrying of Weapon Off Duty

Sworn members shall not be required to carry their weapon off duty.

3.48 Peace Officer Authority Outside of State

Peace Officer powers of sworn members do not extend beyond this state except as provided for in the Uniform Act on Fresh Pursuit. Members who are outside the boundaries of this state for extradition or other matters of direct concern to the County are not to engage in law enforcement activities unless necessary in the performance of their duties as a member of the Bureau of Investigations, and then only after consideration of the tactical situation.

3.49 Identification of Plainclothes Members

Except in emergencies where it would be neither feasible nor practical, plainclothes members or members off duty in plainclothes, when taking any official action, shall identify themselves immediately by displaying their official

Bureau of Investigations shield or identification card.

3.50 Display of Firearms

Members shall at no time intentionally display their firearms or draw them in any public place, except for proper inspection or official use.

3.51 Shield and Credentials

Members shall carry the shield issued and bearing the number assigned to them. They shall not carry or wear a shield bearing another number except in emergencies, and then only with authorization.

3.52 Weapon Qualifications

Sworn members shall complete weapon qualification requirements as prescribed in Bureau of Investigations policy.

Members shall examine and clean their duty-issued firearms as often as necessary to keep them in good serviceable condition.

3.53 Confidentiality of Bureau of Investigations Business

Members shall not reveal confidential information outside of the Bureau of Investigations except as provided by law or directed by a command member. Questions regarding the disclosure of information shall be referred to a command member. A violation of the security of Bureau of Investigations information constitutes misconduct.

3.54 Residence and Telephone

Members shall adhere to current residency requirements and shall maintain telephone accessibility at their residence.

Members shall keep the Bureau of Investigations informed of their correct address and telephone number. They shall report, in writing, any change in their residence and/or phone number to the Office of the Chief Investigator within 24 hours after such change.

3.55 Telephone and Address Confidentiality

Unless authorized by a command member, no member shall release the name, phone number, and/or address information of a member to a non-member. When the requesting party wishes to contact a member for personal emergency or urgent work-related reasons, the division secretarial staff member or a

supervisor will immediately attempt to contact the member and deliver the message. When the request does not require an immediate contact or when the division secretarial staff member or a supervisor is unable to contact the member, they may provide the requesting party with the member's Bureau of Investigations voice mailbox number. When there is no Bureau of Investigations voice mailbox for the member, a written message shall be taken and forwarded as appropriate.

3.56 Confidentiality of Mail

Personal mail should not be mailed to the Bureau of Investigations. Any mail or written communication that is addressed to a member by name shall be considered confidential and shall not be opened or read by any other member without the permission of the addressee. An exception is that mail addressed to a member with the address of the Bureau of Investigations may be opened by a Chief's Office representative. This may be done to ensure proper routing and compliance with Bureau of Investigations rules and regulations.

3.57 Expectations of Privacy

Members shall not store personal property or information with an expectation of personal privacy in such places as lockers, desks, Bureau of Investigations-owned vehicles, file cabinets, computers, or similar areas that are under the control and management of the District Attorney's Office. While this agency recognizes the need for members to occasionally store personal items in such areas, these and similar places may be inspected or otherwise entered-- to meet operational needs, internal investigatory requirements, or for any other reasons-- at the direction of the agency's chief executive or their designee.

3.58 Computer Use

All members shall conform to the Bureau of Investigations' policies and procedures and County's administrative directives relative to the utilization of District Attorney's Office computers and the information obtained from such use.

Federal and state laws are applicable to the use of criminal justice computer systems, and violations of these sections may violate agreements or statutes relating to the use of those systems. Therefore:

A. Members shall maintain the security and confidentiality of the Bureau of Investigations' computer systems and the files contained therein.

B. Members shall not access or utilize the computer systems or information contained in them, or available though them, without access authorization from their supervisor.

C. Computer “hacking” is prohibited within the Bureau of Investigations. Members shall only utilize and access those systems, programs, files, and information authorized for their use by competent authority.

D. Members shall use Bureau of Investigations computer systems, files, and programs and information only for official business.

E. Members are advised that they do not maintain any right of privacy in Bureau of Investigations computer equipment or its contents, including personally-owned software which has been installed with or without authorization.

1. This agency reserves the right to access any information contained in Bureau of Investigations computers and may require members to provide passwords to files that have been encrypted or password protected.

2. The agency reserves the right to access, for quality control purposes and/or ensuring compliance with this provision, electronic and voice transmissions of members conducting the business of this agency.

3.59 Documentation and Submission of Reports

The proper documentation of investigative action, crimes, arrests, and other incidents is essential to the efficient functioning of the Bureau of Investigations. Members shall submit written reports (or authorized electronic messaging) as required by Bureau of Investigations’ policies, procedures, or orders. Reports shall be completed and submitted by established suspense date.

Members who are in doubt as to the need or the proper way of documenting a particular incident shall seek guidance from their supervisor.

3.60 Removing or Altering Records

No member shall remove or alter any Bureau of Investigations record or photograph except in the line of duty.

No member of this agency shall maintain files or duplicate copies of official agency files in either manual or electronic formats at their place of residence or in other locations outside the confines of this agency without express permission.

3.61 Correspondence

Members shall not use Bureau of Investigations letterheads for their private correspondence.

All correspondence shall be in accordance with Bureau of Investigations policy.

3.62 Personal Mail Addressed to Bureau of Investigations

Members will not use the Bureau of Investigations as a mailing address for private business or correspondence. The Bureau of Investigations address shall not be used on any motor vehicle registration or driver's license. Exception: Employees authorized confidentiality registration per Vehicle Code section 1808.

3.63 Court Attendance and Testimony

Attendance at a court or quasi-judicial hearing as required by subpoena is an official duty assignment. Members shall attend punctually as indicated on the subpoena. Request for permission to omit this duty must be cleared with the prosecuting attorney handling the case or other competent court authority. Members failing to appear in court as required by subpoena subject themselves to disciplinary action.

All members, when appearing in court to testify in any case, are responsible for becoming completely familiar with that portion of the case in which they were involved.

Members in court shall testify in a clear and concise manner. Questions shall be answered promptly, truthfully, and without evasion. Personal behavior shall be exemplary, both while in court awaiting call and while on the witness stand. Members appearing in court in response to a subpoena or other summons shall present a clean and neat appearance. They shall wear professional attire. In the case of male members, this would include a business suit and tie, or slacks, sport coat, and tie. Female members will dress appropriately to meet these standards.

Every member, when appearing as a witness before any competent investigative body, judicial tribunal, hearing board, or person authorized to take testimony, who refuses to testify, will be subject to disciplinary action.

3.64 Assisting in Civil Cases

Members shall not serve civil process or render assistance in civil cases except as required by law or as directed by the Chief Investigator in the course of their official duty, or where they may be personally involved.

3.65 Interviews and Testimony in Civil Cases

Members of the Bureau of Investigations shall not volunteer to testify in civil actions arising out of their employment, nor shall they testify unless subpoenaed. If the subpoena arises out of their Bureau of Investigations employment, they shall immediately notify their immediate superior of the service of the subpoena,

who in turn will then notify the Chief Investigator. Interviews requested by outside attorneys or investigators in regard to such cases will also be cleared with one's supervisor.

3.66 Instituting or Settling of Personal Civil Actions

Members shall not institute any civil actions against a third party arising out of their official duties, or accept or agree to accept anything as payment or settlement for personal injuries sustained in the discharge of their official duties without first notifying the Office of the Chief Investigator. This is in no way intended to preclude anyone from instituting such actions, but is only an attempt to protect the interests of the County against such third party.

3.67 Testifying for the Defense

All members subpoenaed or asked to testify for the defense in any criminal trial, or against the County or Bureau of Investigations in any type of hearing or trial, shall notify their supervisor upon receipt of said subpoena or verbal request and before testifying. The supervisor will in turn notify the Chief Investigator who may then notify the District Attorney or County Counsel's Office in regard to the case.

3.68 Protecting the Crime Scene

It shall be the duty of all sworn members, when assigned to or assuming control at a crime scene or Protocol scene, to arrest the violator whenever possible, detain witnesses, and keep the premises or area secure from intrusion by unauthorized persons, and maintain it without change in appearance and character. This responsibility shall terminate and the member shall stand relieved when upon the arrival and takeover by an investigator, a superior member, or any other member specifically assigned to investigate the crime. However, when required by the member assuming charge, they will stand by and assist.

3.69 Radio Procedures

All members operating Bureau radio(s), cellular phone(s), or any other communication device(s) shall strictly adhere to procedures as set forth in Bureau of Investigations policy and by the Federal Communications Commission.

All radio communications will be made in a clear, courteous, and professional manner.

3.70 Rendering Honors to the National Colors and Anthem

Members of the Bureau of Investigations shall render proper civilian clothed honors to the National Colors and Anthem when appropriate.

3.71 Use of Bureau of Investigations' Vehicles

Members shall comply with the rules of the road as outlined in the California Vehicle Code. Members shall not violate traffic laws without good and justifiable cause. Members shall operate official vehicles in a careful and prudent manner consistent with Bureau of Investigations policy.

All members, while driving, shall possess a valid California Driver's License.

3.72 Transporting Persons in Bureau of Investigations Vehicles

Transporting persons in Bureau of Investigations vehicles shall be performed in conformance with Bureau of Investigations policy.

3.73 Reporting Accidents

Members involved in a motor vehicle accident with County equipment shall report the accident immediately to a supervisor and shall have the accident fully investigated. The investigation will be conducted in accordance with Bureau policy.

3.74 Bureau of Investigations Property

Any member using Bureau of Investigations equipment or property shall be held responsible for its proper care and use. Members will immediately report to their immediate supervisor any loss or damage to Bureau of Investigations equipment assigned to or used by them. The report shall be made in accordance with Bureau of Investigations policies and procedures.

3.75 Loss of Bureau of Investigations Equipment

Members losing items of Bureau of Investigations equipment which they have been issued will be required to explain and document the occasion and circumstances of such loss and to take all suitable measures to recover them. If unsuccessful in locating the lost item, the member may be required to pay for the item and/or receive such other discipline as may be appropriate.

3.76 Surrender of Bureau of Investigations Property

Members shall surrender all Bureau of Investigations property issued to them upon separation from employment. Failure to return non-expendable items may require that the member reimburse the Bureau of Investigations for the fair market value of the article(s).

3.77 Property- Booking/Disposal

All property of value, regardless of the circumstances under which it was acquired by the member, will be turned in to the Bureau of Investigations and properly booked or turned over to a local law enforcement agency. The handling and disposition shall be in accordance with Bureau of Investigations policy. Property of no monetary or evidentiary value and with no known owner, may be disposed of by the member concerned. The member will ensure the appropriate documentation is made.

3.78 Membership in Organizations

Except for the Armed Forces Reserve components enumerated in the California Veterans Code, members shall not affiliate themselves with any organization or group, the constitution or by-laws of which in any way exacts prior consideration or prevents its members from rendering proper and efficient service to the Bureau of Investigations or by the active and continuing association with or membership in any subversive organization, street gang, or outlaw motorcycle gang to include the outlaw motorcycle gang support clubs. This would also include membership in motorcycle clubs which mimic the structure and/or nature of an outlaw motorcycle gang through patches and/or rules and by-laws. The exception would be when specifically directed and authorized by the Department in the line of duty.

3.79 Outside Employment

Members shall not accept employment with or participate actively in the management or operation of any business that would result in a conflict of interest, reflect negatively or bring discredit on said members or the Bureau of Investigations, or that would affect members' efficiency in the performance of their regular duties.

3.80 Political Activity

Members shall be guided by state law regarding their participation and involvement in political activities. Where state law is silent on this issue, members shall be guided by the following examples of prohibited political activities during working hours, or otherwise serving as a representative of this agency:

a. Place or affix any campaign literature on city/county-owned property
b. Solicit political funds
c. Solicit contributions, signatures, or other forms of support for political candidates, parties, or ballot measures on property owned by this jurisdiction
d. Use official authority to interfere with any election or interfere with the political actions of other employees or the general public
e. Favor or discriminate against any person because of political opinions or

affiliations.

3.81 Endorsements

Members may not, under color of authority or while on duty, recommend, or facilitate the sale of commercial products or services to the public. This includes, but is not limited to, the use of tow services, repair firms, attorneys, bail bond companies, or other technical or professional services. This provision does not pertain to the endorsement of appropriate governmental services where there is a duty to make such endorsements.

CHAPTER IV

BUREAU OF INVESTIGATIONS DISCIPLINE

4.1 Who is Subject to Disciplinary Action

Members who violate their trust by committing any offense punishable under federal, state, or local statute or who violates any provision of the Rules and Regulations or other lawful written or oral order shall be subject to appropriate disciplinary action.

4.2 Bureau of Investigations Authority to Discipline

Final Bureau of Investigations disciplinary authority rests with the District Attorney. Except for informal discipline (Oral Reprimands and Memorandums of Correction), all Bureau of Investigations discipline shall be taken or approved by the Chief Investigator.

4.3 Levels of Disciplinary Action

Disciplinary action within the Bureau of Investigations shall be divided into two levels:

1. Informal Discipline

   This level of disciplinary action shall be as the title indicates, informal, and will be handled within the Bureau. It will consist of the Oral Reprimand and the Memorandum of Correction. No record will be made in the member's formal personnel file of such actions. The Memorandum of Correction will be retained in the division files for a period of 13 months, then destroyed, unless other action is pending.

2. Formal Discipline

   This level of disciplinary action shall include the following:

   a. Written Reprimand
   b. Forfeiture of Time Off
   c. Reduction in Pay
   d. Suspension
   e. Demotion
   f. Termination

   Any action taken at this level will be documented in the member's official

personnel file.

4.4 Penalties

With the approval of the District Attorney, subject to the provisions of the rules of the Civil Service Commission, and, when necessary, the approval of the County Administrator, the following penalties may be assessed against any member of the Bureau of Investigations as disciplinary action:

1. Oral Reprimand
2. Memorandum of Correction
3. Written Reprimand
4. Forfeiture of Time Off
5. Reduction in Pay
6. Suspension
7. Demotion
8. Discharge from Service
9. Other (i.e., counseling, substance abuse testing)

4.5 Lieutenants' Discipline Authority

Lieutenants may take the following disciplinary measures:

1. Oral Reprimand
2. Memorandum of Correction
3. Written Reprimand, with the approval of the Chief Investigator

4.6 Retention of Formal Disciplinary Records

A record of all formal discipline will be retained in the member's formal personnel file, until purged, according to the following procedure.

1. The Written Reprimand and Forfeiture of Time Off will be purged from the formal personnel file after the member has had five (5) continuous years of additional service with no other formal disciplinary action.

2. Records of Suspensions and Reductions in Pay will be purged from the formal personnel file after the member has had ten (10) continuous years of additional service, with no other formal disciplinary action.

3. Demotions and discharges from service are permanent records, which will not be purged under any circumstances.

   It is the member's responsibility to advise the administration when their formal personnel file is eligible for purging.

4.7 Retention of Personnel Complaint Investigations

All personnel complaint investigations shall be retained for a minimum of five years, regardless of the findings, in accordance with state law. In addition to the required five-year retention, formal disciplinary action resulting from personnel complaint investigations shall require that investigations remain on file for the period of time the discipline record is maintained in the member's personnel file.

4.8 Emergency Suspension

Emergency suspension is accomplished when a serious violation of law, Bureau of Investigations order, or rules and regulations has occurred, and a command member or supervisory member, with the concurrence of the Chief Investigator, feels that the immediate suspension is in the best interest of the Bureau of Investigations.

A member receiving an emergency suspension shall be required to report to the Office of the Chief Investigator on the next business day at 0845 hours, unless otherwise directed by competent authority.

4.9 Administrative Leave

The Chief Investigator may, due to the nature of a serious incident or allegation of misconduct, place a member on Administrative Leave with pay, until the conclusion of any personnel investigation or until otherwise notified by the Chief Investigator or the Chief's representative. During this period, the member shall be relieved from their duties and ordered to hold themselves available to cooperate with the investigation during those hours for which the member remains in a paid status with the Bureau of Investigations. While in this status, a sworn member may be relieved of their shield, credentials, and County-issued firearms and shall refrain from taking any action as a peace member.

4.10 Surrender of Equipment While Under Suspension

Members, while under suspension, shall surrender their shield, ID card, and any County-issued firearms to the Chief Investigator or his or her designee. While under suspension, members are subject to the laws regarding concealed weapons which apply to all other citizens.

4.11 Interdivisional Disciplinary Action

When the improper conduct of a member of one unit or section is of such a nature that immediate disciplinary action is required of a command or supervisory member of another unit or section, such action may be taken at once, but shall be limited to the following:

1. Oral Reprimand
2. Memorandum of Correction
3. Emergency Suspension

The command or supervisory member taking such action shall immediately notify the member's immediate supervisor of the member so disciplined and the Chief Investigator. Such other reports shall be submitted as required by current policy.

4.12 Changes to Disciplinary Reports

Under no circumstances shall any superior member alter a disciplinary report or order a subordinate supervisory member to alter or withdraw such a report once the report is finalized.

4.13 Informing the Person Being Disciplined

The member being disciplined shall be informed of the charges and penalties assigned or recommended at the time documentation is made and forwarded through official Bureau of Investigations channels on any formal disciplinary actions.

4.14 Appeals from Penalties

Appeals from penalties imposed as disciplinary measures may be taken as provided in the applicable Memorandum of Understanding or as provided in the rules of the Civil Service Commission.

4.15 Grievances

All members who feel that they have been injured or discredited by a superior member through unreasonable, unjust, or arbitrary conduct or abusive language shall reduce said grievances to writing and direct them through official channels to the Chief Investigator.

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(Adopted 07/11)

NEW POLICY, PROCEDURE, RULE, OR REGULATION SUBMISSION

I. POLICY

When the necessity of a new policy, procedure, rule, or regulation arises as a result of a new law, a change in current law, or a Bureau of Investigations practice, the following procedure will be followed.

II. PROCEDURE

A. The proposed policy, procedure, rule, or regulation will be prepared in a format consistent with the current Policy and Procedure / Rules and Regulations Manual.

B. The proposed policy, procedure, rule, or regulation will be submitted to the author's immediate supervisor or to the Lieutenant whose supervisory responsibility the document applies.

1. The Lieutenant will review the document and make any appropriate edits or changes to ensure the document complies with the law or practice it is governing. The Lieutenant will then submit the document for final review and approval.

C. The final review and approval of ALL proposed policy, procedure, rule, or regulation will rest with the Chief Investigator.

D. The Policies and Procedures / Rules and Regulations Manual will be reviewed annually.

(Adopted 07/11)

OFFICER-INVOLVED CRITICAL INCIDENT PROTOCOL INVESTIGATIONS

I. POLICY

A. It shall be the policy of the San Joaquin County District Attorney's Bureau of Investigations to respond to Officer-Involved Critical Incidents occurring in San Joaquin County, which involve death or serious injury to an individual/individuals, to assist the venue and employer agency(ies) with the investigation.

B. The San Joaquin County District Attorney's Bureau of Investigations will adhere to the procedures contained in the "San Joaquin County Officer-Involved Critical Incident Protocol" when injury or death occurs as a result of the officer involved incident.

C. It shall be the responsibility of the investigators on-call to be available to respond to a Protocol (Officer-Involved Critical Incident).

II. PROCEDURE

A. All sworn personnel of the San Joaquin County District Attorney's Bureau of Investigations will be assigned to a Protocol team.

1. The Protocol team will consist of investigators who will be on-call for a two-week period commencing on a Wednesday at 8:00 AM and finishing on a Wednesday at 8:00 AM.

2. It shall be the responsibility of the investigator to arrange to have his/her "on-call Protocol" covered when swapping coverage for personal reasons or away at non-mandated training.

3. A Protocol Schedule Exchange for Investigators form shall be completed by the investigator requesting the exchange of Protocol.

   The Protocol Schedule Exchange for Investigators form shall have the date(s) and time(s) of the Protocol exchange.

   The requesting investigator and the investigator filling in shall sign the form and the form shall be delivered to the Protocol Coordinator for approval.

4. Investigators shall attempt to get another investigator with the same level of protocol investigation experience when exchanging coverage time.

B. Notification

1. When notified that a Protocol has been invoked, the investigator shall respond to the briefing location, at the indicated time by the Protocol Coordinator.

2. The investigator shall respond to the briefing location in appropriate attire with all necessary County-issued safety equipment to facilitate any assignment.

3. At the briefing, the investigator will be informed of the Officer-Involved Critical Incident and assigned to an investigative team.

4. The course of the investigation will be conducted in a team concept between the venue/employer agencies and the District Attorney's Bureau of Investigations.

C. Reports

1. Every investigator assigned to a Protocol investigation shall complete a report on their team assignment and investigative involvement.

2. All interviews shall be recorded and the recordings shall be turned over to the venue/employer agency as evidence.

3. Reports shall be submitted promptly in the manner prescribed by Bureau of Investigations' procedures. Particular care shall be taken in their preparation to assure accuracy and thoroughness as well as proper usage of language, punctuation, and spelling.

   All reports will be submitted to the Protocol Coordinator for review. After all edits/corrections are completed, all reports will be sent to the Division Secretary for formatting. After formatting, the Division Secretary will return all reports to the Protocol Coordinator for approval.

4. Once all investigative reports have been completed and reviewed by the Protocol Coordinator, the "A" Team member shall deliver the reports to the venue/employer agency "A" Team member. The venue/employer agency "A" Team member shall prepare a binder with all investigative reports and supporting documents.

The DA "A" Team member will be responsible for ensuring a complete copy of the binder is provided to and "logged in" by the Homicide/Gang Unit paralegal.

Once the DA review is completed and the "closure letter" is prepared, the DA "A" Team member shall document receipt of the closure letter to the case and close the investigation.

(Adopted 07/11)

USE OF FORCE

I. POLICY

The use of force by law enforcement personnel is a matter of critical concern both to the public and the law enforcement community. At times, investigators are confronted with situations where control is required to effect arrests or protect the public safety. Attempts will be made to achieve control through advice, warnings, and persuasion; however, in situations where resistance or a threat to life is encountered and reasonable alternatives have been exhausted or would clearly be ineffective, physical force may be used.

A. Law

1. Sworn personnel will become familiar with Sections 196, 197, 198a, and Part 2, Title 3 of the State Penal Code.

a. Violation of 148 PC (Resisting, Delaying, or Obstructing Officer)

1. The investigator involved is responsible for the initial investigation and will immediately inform his/her supervisor. The supervisor will determine if a second investigator should assume the investigation.

2. An investigator directly involved in a 148 PC violation may request aid from other investigators if he/she needs help in establishing the facts, with concurrence of the supervisor.

3. The investigator's immediate supervisor will review the crime report and will establish that all elements of the offense are noted.

b. Violation of 243 or 245 PC (Battery or Assault)

1. A 243 PC offense will be handled in the same manner as a 148 PC offense if there is no injury to either the responsible party or the investigator.

2. In a 243 PC violation that involves significant injury to either responsible party or the investigator, the appropriate investigative agency, in whose jurisdiction the crime occurs, will be contacted for the initial

investigation and the follow-up. The supervising staff of the District Attorney's Bureau of Investigations shall be notified immediately.

B. Procedures

1. General Provisions

a. Investigators may use physical force to effect an arrest, prevent an escape, or overcome resistance. The type and degree of force used will be reasonable and based upon the facts of the situation. Only that force necessary and reasonable for the crime involved and the protection of the investigator and public will be used.

b. Bureau members need not retreat or desist in any reasonable use of force in order to avoid confrontation. Deadly force or force likely to produce a mortal injury; however, will not be used unless the incident prompting the force is determined by the Bureau member to involve a danger to human life.

2. Physical Force – Including Weapons

a. Direct Use of Firearms

1. All investigators may discharge a firearm in the line of duty under the following circumstances:

A. At an approved range.

B. To kill a seriously injured or dangerous animal when any other disposition is determined to be impractical.

C. In defense of an investigator's own life.

D. In defense of another person's life.

E. To effect the capture of, or prevent the escape or rescue of, a person who the investigator has reasonable cause to believe has committed a felony involving use or threat to use deadly

force, or who the investigator has reasonable cause to believe poses a danger to human life.

b. Firearms should not be discharged in the following circumstances:

1. As warning shots.

2. When capturing or preventing the escape of a person believed to have committed a felony that did not involve use or threat to use deadly force, or the potential for injury or death.

3. From a moving vehicle.

3. Responsibility of Investigator Involved

It shall be the responsibility of any investigator who discharges a firearm either accidentally or intentionally in the performance of duty, to protect the scene and evidence and ensure that the investigator's supervisor or the Chief Investigator is notified. The supervisor will make any necessary notifications to the agency in whose jurisdiction the incident occurs.

1. The investigator's Lieutenant or the Chief Investigator will invoke Protocol when appropriate.

4. Responsibility of the Chief Investigator

a. The Chief Investigator, or in his/her absence, a designee, will coordinate the initial investigation of a gunshot incident involving a District Attorney Investigator.

b. The Chief Investigator will notify the District Attorney and the Assistant District Attorney as soon as possible.

5. Routine Review of Firearm Use

a. Every investigator is required to report every accidental or deliberate discharge of a firearm to their immediate supervisor, except for routine target shooting or hunting.

b. The supervisor will file a complete report of his/her investigation.

c. Copies of all reports relating to the incident will be submitted to the Shooting Review Board.

6. Shooting Review Board

a. The Board's purpose is to serve as an advisory unit to the District Attorney. It is charged with the responsibility of examining all shooting incidents, on or off duty, intentional or accidental, except for routine target shooting, hunting, and Officer-Involved Critical Incident Protocol investigations. The Board will constructively critique each shooting incident and make recommendations to the District Attorney. The Board will not have the authority to invoke disciplinary action.

b. The Board will consist of the following personnel:

1. Assistant District Attorney (Chairperson)

2. Chief Investigator

3. Designated Bureau of Investigations Lieutenant

4. Investigator not involved in the incident being reviewed, preferably the Range Master

5. Member of the agency in whose jurisdiction the incident occurred

c. Should a Board member be absent when the Board convenes, the District Attorney may appoint an alternate who will serve until that particular investigation is concluded.

d. Duties and Responsibilities of the Shooting Review Board

1. The Chairperson will convene the Board as soon as practical after receipt of all reports involving the incident.

2. The Board will utilize all available services and facilities necessary to conduct a complete examination

of the circumstances surrounding the shooting incident.

3. The Board will have the authority to order employees to appear and testify, take testimony from witnesses, and to direct supplemental investigations as necessary.

4. Findings and recommendations will be submitted in writing by the Board to the District Attorney at the conclusion of the hearing.

5. The findings of the Board will determine that the shooting is classified as one of the following:

   A. Within Policy

   B. Not Within Policy

   C. Accidental

e. Bureau members, when in the performance of their duties and when reasonably necessary, may use weapons, other than firearms, in conformance with the following procedures. They will each be issued a canister of pepper spray and required to maintain it.

1. CHEMICAL AGENTS - This is to be used only as a defensive or control weapon. In those instances which require force, short of deadly force, to subdue and arrest combative persons, chemical agents use is justified. Only chemical agents authorized by the District Attorney will be used:

   A. Indiscriminate use of pepper spray against non-threatening persons is prohibited.

   B. First aid after use: pepper spray is irritating to the eyes, nose, and skin. Bureau members using it will ensure that persons subject to such use receive adequate treatment. Severe exposure may require gentle but copious amounts of water. Persons with sensitive skin may experience mild burns. First aid treatment

at a medical facility shall be provided if necessary.

2. USE OF IMPACT WEAPON ASP BATON - The following impact weapon baton has been authorized for optional use as an intermediate defense weapon by sworn District Attorney Bureau of Investigations personnel:

   Brand: ASP (Armament Systems Procedures, Inc.)

   Model: 16", 21", 26", collapsible baton, black color shaft

   Holder: As approved

   Investigator discretion regarding the use of the collapsible baton will follow guidelines established for impact weapons in the "Use of Force" policy.

   Investigators desiring to carry the collapsible baton will complete an instructional and proficiency training session with an approved weapons instructor prior to carrying the baton.

f. Range Master

The Bureau Range Master will have completed a POST-approved range master course and will obtain updates as they are available.

g. Types of Firearms Authorized for Duty

1. FIREARM CALIBER – A Sig Sauer, .40 caliber duty weapon will be issued to the investigator. Personally owned weapons may be substituted with the prior approval of the Chief Investigator. Any weapon or back-up weapon not issued by the agency will be inspected and approved by the Range Master prior to being carried on duty. Proficiency with all weapons will be demonstrated on a quarterly basis. Failure to demonstrate proficiency as required will be documented and transmitted to the Chief Investigator for action.

2. All firearms will be inspected for reliability at the time quarterly proficiency is demonstrated.

3. Revolvers may be five (5) or six (6) round capacity. Barrel lengths will be 6" or less. Semi-automatic pistols shall be double action.

4. Ammunition will be furnished by the Bureau.

h. Off-Duty Firearms

There is no requirement for District Attorney Investigators to carry a firearm while off-duty.

i. Impact Weapon

These weapons may be used as defensive or control weapons in instances that threaten the safety of an investigator, other persons, or to subdue and arrest threatening persons.

1. Investigators will not use an impact weapon against a non-threatening person except as a control device when directing, controlling, or escorting uncooperative persons.

2. First aid after use: If the use of the impact weapon causes injury that would require medical attention, the investigator will ensure that the injured person receives proper medical attention.

3. Bureau members, when in performance of their duties and when reasonably necessary, may use weaponless defense tactics in compliance with the general provisions of this policy.

4. Any use of force upon a citizen by Bureau members, when in performance of their duties, shall be documented by a crime report and reported to a supervisor. Such force shall be deemed to include, but not limited to, use of firearm, pepper spray, impact weapon, Taser weapon, weaponless defense technique, or legal intervention with a vehicle.

5. Any medical treatment given as a result of use of force shall also be documented in such crime or incident report.

6. Should a weapon be used in a non-recreational setting, it is incumbent the investigator contact the Chief Investigator, or one of the Bureau Lieutenants, at home if necessary, as soon as possible after the incident.

(Adopted 07/11)

FIREARMS AND WEAPONS

I. POLICY

A. Firearms Use Policy

Firearms shall be used only when the investigator believes his or her life, or the life of another, is in imminent danger, or in danger of great bodily harm, or when all other reasonable means of apprehension have failed to prevent the escape of a felony suspect who the investigator believes presents a serious danger to others, where the felony involved includes the use or threatened use of deadly force.

B. Use of force issues and guidelines are located in the "Use of Force" policy. Nothing in this policy is intended to prevent an investigator from exercising discretion and good judgment in the use of force, firearms, and/or weapons when the life of a citizen, fellow peace officer, or their own life is in immediate danger.

II. PROCEDURES

A. Employee Conduct – General

1. Employees shall adhere to all firearms and weapons policies.

2. Investigators shall exercise good judgment in the handling and carrying of any weapons/firearms with due consideration for all safety factors.

3. Employees shall not carry any weapons or firearms unless authorized to do so by the Department.

4. Employees shall not possess any weapons while under the influence of alcohol and/or drugs.

   a. It is the employee's responsibility to notify his/her supervisor in the event they are called back to duty after hours if, due to the consumption of alcohol, intoxicating liquor, or legally prescribed medication and/or over-the-counter medication or drugs, they believe they are impaired or unable to perform their job as described.

5. Inappropriate conduct with firearms/weapons is prohibited. The pointing or careless display of weapons, or any other careless

conduct while on or off duty or in any Department facility may result in strict disciplinary action pursuant to the provisions of existing employee MOU's.

B. Acting as a Peace Officer in Other Jurisdictions

The shooting policy of this Department applies in all other jurisdictions.

C. Reporting the Use of Force/Weapons

Reportable uses of force are described in the "Use of Force" policy. Reporting and notification procedures in that policy shall be followed.

D. Carrying Weapons/Firearms/Safety Equipment

1. On-Duty

a. Sworn investigators shall be armed with their duty/authorized firearm while on-duty except as prohibited by law or Bureau policy. For purposes of this section, "armed" shall mean carrying their duty/authorized firearm on their person.

b. Supervisors may require additional safety equipment or other items to be worn/carried as assignments and circumstances dictate.

2. Off-Duty

The carrying of firearms/weapons off-duty by sworn investigators is optional.

3. Non-sworn personnel are prohibited from carrying defensive weapons unless authorized to do so by the Chief Investigator or designee.

4. Exceptions to this policy must be authorized by a supervisor.

E. Firearms

1. Drawing Firearms

a. Investigators may draw a firearm when arresting or attempting to arrest any person(s) whom they believe are about to commit, are in the process of committing, or who has recently committed a felonious crime; or in any situation where there is likelihood of danger to the investigator or other persons.

b. The drawing of firearms during supervised training shall be in accordance with procedures established by the Range Master or designee for that purpose.

2. Discharging of Firearms

An investigator of this Bureau shall not discharge a firearm or use any other type of deadly force in the performance of his/her duties, except under the following circumstances:

a. In accordance with existing firearms and use of force policies.

b. To kill a dangerous animal that is attacking the investigator or another person or persons, or which, if allowed to escape, presents a danger to the public.

c. When humanity requires the destruction of an animal to save it from further suffering and other disposition is not possible; however, with prior permission of the owner and/or approval of the supervisor and when the surroundings are such that it would not be a hazard to person(s) or property.

d. For target practice at an approved range or in unrestricted areas.

3. Authorized Firearms

a. The Bureau will issue a duty/authorized .40 caliber Sig Sauer Model P229, Model P239 or Model P239 SAS firearm and appropriate ammunition unless the employee elects to carry a personal firearm approved by the Chief Investigator. Any modifications made to Bureau-issued or optional weapons must be pre-approved by the Chief Investigator and inspected by the Range Master prior to any use by the employee.

b. Optional weapons shall be of a .40 caliber, make, and barrel length approved by the Chief Investigator, with input from the Range Master. All ammunition carried on-duty shall be issued by the Bureau.

c. Employees shall only carry on-duty holsters approved by the Range Master.

4. Prohibited Ammunition

All ammunition shall be approved by the Bureau Range Master if the ammunition is different from Bureau issue.

a. No hand-loads will be used.

b. Ammunition designed to pierce a Kevlar vest is expressly prohibited, unless specified for special operations.

5. Firearms Qualification

a. Sworn investigators must qualify at scheduled qualifications (at least once a quarter) with each issued and/or approved weapon they intend to carry on-duty. Employees are strongly encouraged to maintain proficiency with any weapon(s) they intend to carry off-duty.

b. An employee who is carrying any approved firearm under the conditions of employment must be currently qualified with the firearm. For on-duty weapons, "currently qualified" means the employee has met one of the following two criteria:

1. The employee qualified with the Bureau-issued or approved firearm when undergoing initial training and orientation by the Bureau Range Master.

2. The employee qualified with the firearm during scheduled qualifications.

c. Unless there is an authorized excused absence, an employee is "currently qualified" from the date of the last scheduled qualification through the next scheduled firearms qualification.

d. If an employee fails to qualify with the weapon during scheduled qualifications exercises, the employee is no longer qualified with the firearm and may not carry it.

e. The employee's supervisor and the Chief Investigator must be notified immediately of failures to qualify. Steps will be taken immediately or as soon as practical to correct any problems or deficiencies and the employee may be temporarily suspended, reassigned, and/or subject to discipline.

f. Any exceptions must be approved by the Chief Investigator or designee.

g. The Range Master must maintain a qualifications log to include the type of weapon(s) and ammunition being used by investigators.

6. General Firearms Safety Precautions

a. Investigators are required to handle their weapons at all times in such a manner as to preclude the possibility of accidentally injuring themselves or another person. Strict adherence to the basic safety precautions described herein is required and will minimize chances of an accidental discharge.

1. Treat all firearms as if they are loaded.

2. Never point a firearm at anything you do not intend to shoot.

3. Never clean or work on a loaded firearm. Check the firearm before cleaning to make sure it is unloaded.

4. Never spin or juggle a firearm.

5. Never put your finger in the trigger guard when holstering a firearm. In drawing the firearm, do not put your finger in the trigger guard until the firearm is clear of the holster and pointing at your target.

6. Never leave a firearm unattended.

7. While on duty, unloading and cleaning a firearm shall be done only in designated areas.

7. Range Precautions

The San Joaquin County Bureau of Investigations has agreements with several local agencies for range use. The appropriate agencies' range rules will always supersede this policy when differences occur.

a. In addition to all local range safety regulations, investigators firing on a range shall adhere to the following safety precautions:

1. Treat each firearm as if it were loaded.

2. Point the firearm in a safe direction only. When pointing firearms down range, make sure there is no one in front of the firing line.

3. Stay off the firing line unless shooting.

4. Load only while on the firing line.

5. Load, unload, and fire only on command.

6. Shoot only at designated targets.

7. Never leave a firearm unattended.

8. Do not handle firearms behind the firing line.

9. Wear ear and eye protection while firing.

10. Safely clear malfunctions.

11. Investigators may be required to wear body armor while at the range. This will be at the discretion of the Range Master or the specific activities of the day.

8. Cleaning/Maintenance of Firearms

a. Each investigator is responsible for properly and regularly cleaning their duty weapon(s) and magazines.

b. The cleaning should be performed at least quarterly and after every practice shooting and/or qualification.

c. The Bureau of Investigations shall provide the cleaning supplies. Access to these supplies will be arranged through the Range Master or Training Coordinator.

9. Department Identification

a. On-duty investigators who are armed with weapons and in plain view of the public shall display their badge and/or other means of identification in a manner that clearly identifies them as peace officers.

b. Investigators who are armed while off-duty shall carry their Bureau-issued identification.

c. This section shall not apply to investigators working undercover or otherwise exempted with the prior knowledge and approval of a supervisor.

10. Airlines or Interstate Common Carrier

Carrying weapons on airlines or interstate common carriers while on-duty requires prior approval by the Chief Investigator through the chain of command. Any federal or carrier regulations shall apply.

11. Recreational Use

Nothing in this policy shall prohibit or restrict the discharge of privately owned firearms used for reasonable and lawful recreational purposes.

F. Use of Oleoresin Capsicum (Pepper Spray)

1. Investigators and Investigative Assistants may use Bureau-issued Oleoresin Capsicum (pepper spray) substances.

2. Pepper spray shall be used in conformance with the "Use of Force" policy as a defensive control weapon.

G. ASP Baton

1. Authorized personnel

Only sworn investigators who have completed a Bureau approved training course are authorized to carry an ASP baton. Additional training and/or refreshers in the use of the ASP baton shall be required at the discretion of the Chief Investigator or designee.

2. Authorized Use

The ASP baton shall be used in conformance with the "Use of Force" policy.

H. Taser Weapon

1. Authorized Personnel

Prior to carrying a Taser, all sworn personnel must participate in a Bureau-approved training course consistent with operational safety concerns. Only Tasers approved and issued by the San Joaquin County District Attorney's Bureau of Investigations will be used for, or on duty.

2. Authorized Use

The Taser is an authorized use of force option when the investigator reasonably believes:

a. There exists a present threat of physical violence and all reasonable attempts to gain control of the suspect, i.e., arrest and control techniques, will likely be ineffective.

b. Approaching the suspect in an attempt to gain physical control would create an unreasonable risk of harm to the investigator, public, or the suspect.

3. Definition

The Taser is a less lethal device option used to incapacitate violent subjects by discharging an electrical current into the intended target, when used properly, via two wire probes. The Taser may

also be used as a close-contact stun gun by removing the prong cartridge and applying directly to the skin of the intended target.

4. Storage

The Taser will be kept in storage at a location in the Bureau of Investigations when not being used for official purposes. The Taser will be kept in a Department-issued approved holster or secured in the trunk of a Department-issued vehicle.

5. Use/Deployment of Taser

a. Only Bureau of Investigations investigators who are properly trained in the use and deployment of the Taser shall be authorized to use the Taser.

b. The Taser is not a substitute for the use of deadly force.

c. The Taser will <u>not</u> be used if any of the following factors are known to exist prior to deployment of the Taser:

1. The suspect has been exposed to a flammable liquid, aerosol or substance.

2. The use would occur in a flammable or explosive environment, such as a clandestine drug lab.

3. The suspect could fall from a height likely to cause severe injury or death.

4. The suspect could fall into a pool, river or other body of water that may cause drowning.

5. The suspect is obviously a pregnant female, a young juvenile or an elderly person (except in cases where deadly force is approved under the Bureau's guidelines, in compliance with Bureau policy).

d. Situations for the use of the Taser include, but are not limited to:

1. Self-destructive, dangerous or violent, and/or highly aggressive or combative individuals.

2. Instances when use can be accomplished with a reasonable degree of safety to investigators, suspects, and the public.

3. Circumstances where deployment of the Taser provides a tactical advantage or a tactical advantage can be obtained.

4. Training exercises or approved demonstrations.

e. After the Taser has been deployed and/or discharged, and the suspect has been taken into custody, investigators shall:

1. Ensure medical personnel examine all suspects taken into custody by the use of the Taser. Only medical personnel may remove the probes that are embedded in the suspect's skin.

2. Collect and book as evidence any discharged cartridges, probes, and sampling of Anti-Felon Identification (AFID) chips that are discharged with the probes.

3. Ensure probes are handled and booked as bio-hazardous "sharps" material.

4. Fully document the circumstances and cause for deployment in report.

5. Ensure photographs are taken of the suspect and injured areas.

6. The involved investigator(s) supervisor shall complete and submit a Use of Force report to the Chief Investigator.

(Adopted 07/11)

VEHICLE PURSUIT POLICY

I. POLICY

It shall be the policy of the San Joaquin County District Attorney's Office, Bureau of Investigations, that vehicle pursuits may be initiated only when the necessity of immediate apprehension outweighs the degree of danger created by the pursuit and the jeopardy to public safety is not out of proportion to the offense committed. Pursuits must be conducted in accordance with the provisions of the California Vehicle Code and this General Order.

II. PROCEDURE

A. Definitions

1. Vehicle Pursuit

A vehicle pursuit is an event involving a sworn investigator driving an authorized emergency vehicle in emergency response mode, attempting to apprehend a fleeing suspect who is attempting to avoid arrest by using high speed driving or elusive tactics while operating a motor vehicle.

2. Imminent Peril

Imminent peril is an immediate, certain, or impending danger that injury or loss of life is about to occur or is near at hand. The mere possibility of injury or loss of life is not sufficient. Also, imminent peril is not remote, uncertain, contingent, or the danger created solely by the flight of the suspect.

B. Priorities

1. The priorities of a vehicle pursuit are as follows:

a. To prevent injury or death to innocent citizens.

b. To prevent injury or death to a law enforcement officer.

c. The apprehension of the suspect.

C. Initiation of a Vehicle Pursuit

1. Investigators are authorized to initiate a pursuit when law violators clearly exhibit the intention of avoiding arrest by using a vehicle to flee, and a life-threatening situation may exist. The commission of a traffic infraction alone does not qualify as a life threatening situation. A pursuit that does not meet these criteria is prohibited.

2. Investigators must continually evaluate the risks involving the pursuit which may include the following:

   a. The seriousness of the offense and relation to community safety

   b. The speeds involved

   c. The safety of the public

   d. Pedestrian and vehicular traffic

   e. The time of day

   f. Weather and road conditions

   g. The area of the pursuit: residential, commercial, or rural

   h. The ability to communicate with the law enforcement jurisdiction agency

   i. Familiarity of the investigator with the area

   j. The capabilities of the investigator's vehicle

   k. Any other factor that would indicate the interests of public safety and effective law enforcement would not justify initiation of a pursuit

D. Initiating a Pursuit

1. Investigators should attempt to not pursue a vehicle (for example, follow and request assistance); however, when viable options to avoid a pursuit are not available to the investigator, a pursuit may be initiated. If a pursuit is initiated, other investigators shall not

become involved in the pursuit, but shall remain alert to its location and progress.

2. The investigator shall use the vehicle's emergency lights and siren.

3. The investigator shall notify the jurisdiction agency of the pursuit, and will include the reason for the pursuit, location, direction of travel, speed of vehicle, description of the vehicle, number of occupants, type of weapons, and any other pertinent information that the jurisdiction agency should need. If possible, the investigator shall also notify the Bureau.

4. The investigator will request that the jurisdiction agency take over the pursuit. Should the jurisdiction agency refuse to take over the pursuit or if they cannot provide a marked vehicle, the investigator shall terminate the pursuit.

5. As soon as a marked unit is in position to take over the pursuit, the investigator should discontinue his/her pursuit. The investigator may continue to pursue as a backup unit if the marked units do not have sufficient officer backup at the time.

6. After the investigator has been replaced in the pursuit, the investigator shall discontinue driving with emergency lights and siren, and proceed to the termination of the pursuit. The investigator will coordinate the investigation with the other agencies involved in the pursuit.

E. Continuance/Termination of a Pursuit

1. The investigator may continue to pursue while waiting for the jurisdiction agency to take over the pursuit, keeping the threat to the officer or public safety in proportion.

2. The decision to pursue is not irreversible. Investigators must continually question whether the seriousness of the crime justifies continuing the pursuit. The San Joaquin County District Attorney's Office has established guidelines as to when a pursuit should be terminated:

   a. The responding agency has taken over the pursuit.

   b. A supervisor from the District Attorney's Office or responding agency requests that the pursuit be terminated.

c. When there is a clear and unreasonable danger to the investigator or others.

3. When a pursuit is turned over to another agency or terminated, the investigator shall notify his/her supervisor about the pursuit, if the supervisor is not already aware of the pursuit.

F. Other Considerations During a Pursuit

1. Speeds

a. Speed limits cannot be set that will apply to all pursuits due to a wide variation in conditions; however, consideration should be given to terminate a pursuit or reducing the effort when either the investigator's speed or violator's speed becomes unreasonable. Factors that should be considered by pursuing investigators and supervisors to determine reasonable speeds should include:

1. Public Safety

2. Officer Safety

3. Seriousness of the Offense

4. Duration of the Pursuit

5. Pedestrian and Vehicular Traffic

6. Location of Pursuit (i.e. rural, residential, commercial etc.)

7. Weather Conditions and Visibility

8. Types of vehicles involved in the pursuit

9. Familiarity with the area of pursuit

10. Need for immediate apprehension vs. risks to public, officers, and suspect(s) of the pursuit

11. Other persons in the pursued vehicle (for example, passengers, co-offenders, hostages)

12. The pursuing investigator's vehicle is carrying passengers other than sworn investigators – a pursuit shall not be undertaken with prisoners, witnesses, victims, or non-sworn employees in the vehicle

G. Vehicle Pursuit Tactics

1. Except when the use of force is justified (refer to policy on use of force), or when the preservation of life justifies the action, there should be NO attempts to stop pursued vehicles by any of the following methods:

a. Boxing the vehicle in

b. Ramming/legal intervention

c. Roadblocks

d. Channelization

e. Forcing off the road

f. Driving in front of suspect

g. Driving parallel to suspect

h. Caravanning

1. There shall be no caravanning by field units not directly involved in the immediate pursuit.

i. Passing

1. There shall be no attempt by investigators to pass other field units involved in the pursuit unless the passing investigator receives specific permission from the lead car.

2. Spacing

A. All units in pursuit, whether the vehicle in front of the unit is the suspect vehicle or another police vehicle, shall space themselves at a distance that will ensure proper braking and

reaction time in the event the lead vehicle stops, slows, or turns.

3. Use of Firearms During a Pursuit

   a. Investigators will become familiar with the policy in the use of firearms and deadly force. Decisions to shoot at a moving vehicle, whether to disable the vehicle or to stop the suspect, should be based on the most compelling circumstances: probable cause to believe the suspect poses an immediate threat of death or serious physical injury to the investigator or other persons.

   b. Investigators will not discharge a firearm from a moving vehicle.

G. Joint Agency Pursuits

1. Investigators should not become involved in other law enforcement agency pursuits. Notification of a pursuit in progress shall not be construed as a request to join the pursuit. The caller from the outside department will be specifically asked if they are making a request for assistance or merely making a notification.

2. Investigators shall not become involved in another agency's pursuit unless specifically authorized by a Lieutenant or Chief Investigator. Exceptions to this would be when it is clearly demonstrated that a lone unit from an outside agency is unable to request our assistance or the emergent nature of the situation dictates the need for assistance by this Bureau. In these instances, all Bureau pursuit and Code 3 policies are in effect.

3. Investigators must constantly be aware that because they are not driving a marked patrol unit, nor are they wearing a duty uniform, they may not be recognized as being with law enforcement by outside agencies. Therefore, investigators should communicate with other jurisdictions about any involvement they may have with the pursuit or apprehension. Information that should be given to other agencies includes your vehicle description, clothing description, and location.

H. Pursuit Reporting

1. The Lieutenant of the investigator involved in the pursuit shall complete a Department of California Highway Patrol Pursuit form CHP 187A.

2. The Lieutenant will debrief the investigator in regards to the pursuit. This will be conducted to assess any improvements that can be made for any future pursuits.

I. Notification/Accidents/Property Damage

1. When death or injury is caused as the result of a Code 3 response or a pursuit, a Lieutenant or Chief Investigator shall be notified by the investigator and the Officer Involved Critical Incident Protocol Team shall be activated.

2. When property damage is caused as a result of a Code 3 response or a pursuit, the Lieutenant shall be notified, photographs arranged for, and a Bureau report generated.

3. When a traffic accident is caused as the result of a Code 3 response or a pursuit, a Lieutenant or Chief Investigator shall be notified, the traffic agency of jurisdiction shall be requested to investigate the accident, and if death or injury have resulted, the Lieutenant shall be notified to activate the Officer-Involved Critical Incident Protocol Team.

    a. If an investigator's vehicle is involved in the accident, he/she shall complete a San Joaquin County Automobile Accident or Loss Report.

J. Training

The Personnel and Training Coordinator will be responsible for all training required.

(Adopted 07/11)

SEARCH WARRANTS

I. POLICY

Search warrants shall be served in a manner that complies with all applicable state laws and ensures the safety of Bureau personnel, other agency personnel, and the public.

II. PROCEDURE

A. Source Information

1. Corroboration and accuracy of information is mandatory and these guidelines will be strictly adhered to with regard to the service of search warrants.

2. All criminal investigations of a drug or vice nature conducted by investigators shall be queried through Western States Intelligence Network (WSIN) and the Narcotics Information Network (NIN).

B. Warrant Service Preparation

1. The case investigator, person serving the search warrant, or designee shall personally view the location to be searched to obtain a complete property description, determine the safest point and method for entry, conduct all necessary records checks, and make the proper notifications.

2. The search warrant shall be submitted to a Deputy District Attorney for review, when appropriate, prior to presentation to a judge for review and signature.

3. The search warrant shall be reviewed by a supervisor after it has been signed by a judge.

C. Operational Plans

1. The case investigator shall prepare an Operational Plan prior to the service of any search warrant. The investigator's immediate supervisor must approve the completed Operational Plan prior to the planned operation. A Bureau supervisor must approve any deviation from this procedure in advance.

2. A search warrant Operational Plan and briefing are not required when an investigator is serving a search warrant for financial records, merely to obtain information in exchange of records for warrant, or is given to the institution to prepare the records for seizure at a date in the future. These types of search warrants are to be handled in a low-key professional manner.

3. All participating investigators shall be present at the warrant pre-service briefing unless extenuating circumstances dictate otherwise. The Operational Plan will be provided to all assisting personnel. The appropriate jurisdiction agencies shall be advised of the briefing and asked to attend if their assistance is required.

4. Upon completion of the search warrant execution, the case investigator shall account for all copies of the Operational Plan.

D. Warrant Service

1. A supervisor shall be present during the service of a search warrant. The Bureau Chief Investigator must approve any exceptions to this rule.

2. The case investigator shall notify the proper jurisdiction agency dispatcher and watch commander, if practical, and obtain their assistance.

3. All personnel participating in the service of the warrant shall be in appropriate attire with all appropriate safety equipment including body armor and "Raid" vest. The assigned supervisor or designee is responsible for ensuring the required safety equipment is utilized and serviceable.

4. The case investigator or designee will make the appropriate knock and notice at the entry location prior to entering the premises. Uniformed personnel representing the jurisdiction agency shall be used to assist for this purpose.

5. Searches shall be conducted only by peace officers or individuals specifically designated to assist at the direction of the peace officer specified in the search warrant affidavit.

E. Evidence Collection

The case investigator or designee locating items of evidence shall adhere to the policy and procedures in the "Property and Evidence Procedure." The case investigator or designee is responsible for ensuring all items of evidence have been collected, documented, and the chain of custody maintained until deposited in the property room of the Bureau and/or jurisdiction agency. Photographs and/or video may be taken at the discretion of the case investigator.

F. Property Damage

1. Reasonable precautions and care shall be taken to prevent the inadvertent damage of personal property.

2. Should damage to personal property occur as a result of forcible entry or by accident, a description of the damaged article(s) and the circumstances under which it occurred will be documented in the case investigator's report. On-scene supervision will be advised of the damage and photographs will be taken. A responsible party for the property will be advised of the damage. A copy of the investigation report and search warrant face page will be forwarded to the Chief Investigator via the chain of command.

3. If requested by the property owner, the contact information for Risk Management will be provided. Risk Management will provide claim forms upon request.

4. The on-scene supervisor is responsible for contacting Risk Management should any damage occur and advise of any possible future claims as a result of our actions.

G. Minor children

If minor children are present during the arrest of a parent or guardian, the minor children may be released to the custody of a responsible adult with parental or guardian approval. Should a responsible adult be unavailable, the children will be taken into protective custody and placed into the appropriate shelter home.

H. Securing the Premises

1. Each investigator is responsible for ensuring all items of the Bureau and personal equipment, as well as tools used for searching and entry, are collected and returned to the Bureau. The case investigator or on-scene supervisor shall conduct a final walk-through of the premises at the conclusion of the search to check for unreported damage and items of evidence/equipment that may have been left behind.

2. The case investigator or on-scene supervisor shall ensure the premises are adequately secured upon leaving. They have the option to photograph and/or videotape the areas to be searched prior to and after the search is completed in an effort to document the status of the scene. If the premises cannot be secured, the arrestee(s) shall be advised, and at their discretion, a reasonable attempt will be made to contact a responsible party prior to departing.

3. A complete inventory of items removed pursuant to the warrant shall be listed, and a copy left at the location searched. A copy of the search warrant shall be left at the location searched. (This is not to include the Probable Cause statement.)

I. Reliable Businesses and Financial Institutions

1. Financial institutions are reliable businesses including major banks, mortgage companies, real estate companies, governmental agencies, and reputable businesses. No raid-type search warrants will be executed on a financial institution or reliable business without the consent of the Chief Investigator. If a raid-style execution is necessary because of a suspect/hostile business or institution, all normal search warrant requirements and procedures such as Operational Plans and briefings must be completed.

2. Businesses that are open to the public will be closed during the search for crime scene control. After all employees are identified, the owner or manager can send the employees home or leave them in a controlled location of the case investigator's choice. The decision to send employees home is up to the business owner.

J. Telephonic Search Warrants

Telephonic search warrants may be obtained when it becomes impractical to use the conventional method. Contact the on-call Deputy District Attorney.

K. Additional Procedures

The case investigator will adhere to the following laws:

1. Return of Search Warrant

   The investigator shall prepare and file a Return of Search Warrant with the issuing Court within the legal time limit, whether or not any items are seized pursuant to the warrant.

2. Extension of Return of Search Warrant

   If it becomes clear to the case investigator that the Return of Search Warrant cannot be returned to the Court forthwith as required, the case investigator shall obtain a continuance for Return of Search Warrant as provided in the Government Code.

3. Special Masters

   The State Bar of California has provided the District Attorney with a list of Special Master nominees who may be utilized when searching the offices and files of doctors and attorneys as specified in the Penal Code.

4. It will be the responsibility of the investigator (affiant) in charge of the case to monitor, and properly dispose of, evidence taken under a search warrant in a timely fashion.

(Adopted 07/11)

PAROLE AND PROBATION SEARCHES

I. POLICY

It is the policy of the San Joaquin County District Attorney's Bureau of Investigations to conduct parole and probation searches in accordance with all laws. The conducting of parole and probation searches will be carried out on a basis of safety first. The safety of the public and department personnel involved will take precedence over the apprehension of wanted persons or recovery of contraband. Concern and respect for the civil rights and dignity of those persons who are being searched or with whom investigators come in contact with during such activity is required of all investigators.

II. PROCEDURE

A. Confirmation of Parole or Probation Status

1. When dealing with possible parolees, investigators shall do the following:

   a. Check CLETS for parole status.

   b. Contact the Parole and Corrections Team during normal business hours (Monday through Friday, 8:00 AM to 5:00 PM).

   c. Contact State Parole during normal business hours (Monday through Friday, 8:00 AM to 5:00 PM).

   d. Contact CDC Parole I.D. Warrants in Sacramento after normal business hours. The Command Center has a list of telephone numbers for all current Parole Agents.

2. When dealing with possible adult probationers, investigators shall do the following:

   a. Check Caseload Explorer for probation status and print the status for your records and/or report.

   b. Contact San Joaquin County Adult Probation during normal business hours (Monday through Friday, 8:00 AM to 5:00 PM). After hours, contact the Juvenile Justice Center and request to speak with a Probation Officer.

3. When dealing with possible juvenile probationers, investigators shall do either of the following:

    a. Contact San Joaquin County Juvenile Probation during normal business hours (Monday through Friday, 8:00 AM to 5:00 PM).

    b. Contact the Duty Officer at the Juvenile Justice Center.

B. Supervisor Notification

1. Investigators will notify a supervisor prior to any parole or probation searches unless sound police practices dictate otherwise (i.e. exigent circumstances, etc.)

C. Method of Entry and Search

1. Investigators shall not force entry while conducting a parole or probation search without first obtaining a supervisor's approval or unless exigent circumstances exist. In all cases where forced entry is made, a description of the force used and any damages caused will be documented by photos and/or video. The forced entry damage must be documented in the investigator's report.

2. All searches will be conducted in a courteous, professional, and non-destructive manner to the extent the circumstances deem possible. Any disarray caused by the searches will be minimized prior to the departure of the personnel conducting the search.

D. Use of SWAT or Other Agency Entry Teams

1. If any of the following conditions exist, contact a supervisor for approval:

    a. Suspect has a history of violence.

    b. Suspect has a history of possessing weapons.

    c. Investigators or officers do not feel the search can be conducted safely for any other reason.

(Adopted 07/11)

ARREST AND PRISONER PROCEDURES

I. POLICY

Sworn investigators, on occasion, arrest defendants/suspects in connection with their duties. Those arrests shall be in accordance with the laws of arrest of the State of California.

II. PROCEDURE

A. Treatment of Prisoners

1. Employees shall treat prisoners in a fair and humane manner at all times.

2. Fraternization with prisoners is expressly prohibited.

B. Search of Prisoners

Investigators shall search all persons taken into custody for weapons prior to transportation. Prisoners taken into custody by employees of the opposite sex shall only be touched in a manner necessary to detect weapons that might be concealed. An investigator of the same sex as the prisoner should complete a more thorough search.

C. Transportation of the Prisoners

1. Prisoners of the Opposite Sex

a. Investigators shall not transport prisoners of the opposite sex alone. If at all possible, an investigator of the same sex as the prisoner should be used to assist with the transportation. If that is not possible, an additional investigator is still required to assist with the transportation.

b. When transporting prisoners of the opposite sex, the radio (or telephone if radio transmission is not possible) shall be used to report the vehicle starting mileage, starting time, location of transportation, and intended destination to the Sheriff's Office dispatcher. Upon arrival, the dispatcher shall be advised of the ending mileage and time.

c. If possible, every effort should be made to arrange for a uniformed officer in a marked unit to do the transportation.

2. Safety Issues

a. Investigators shall take every precaution to ensure their own safety and the safety of the prisoner.

b. A minimum of two investigators shall be utilized to transport a prisoner, with one investigator seated in the rear portion of the vehicle next to the prisoner.

c. The prisoner shall be handcuffed during transportation.

d. Prisoners shall wear a seat belt while being transported in a motor vehicle.

e. A caged unit shall be used whenever possible. With prior supervisory approval under limited circumstances, the transportation of a prisoner by one investigator may be possible when a caged unit is used. The supervisor shall ensure that officer safety issues are considered prior to approval.

f. On occasions when a prisoner is violent or combative, the investigator will contact the venue agency for transportation of the prisoner in a marked vehicle.

3. Commercial Transportation

a. Investigators transporting prisoners via aircraft must have completed the TSA Flying Armed course. Refer to the "Firearms and Weapons" policy.

b. The handcuffing of prisoners while utilizing commercial transportation can be affected by the policies and procedures of the commercial transportation 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.

c. When transporting a prisoner, the investigator must be able to physically restrain the prisoner at all times when being

transported by aircraft. The investigator is also solely responsible for the security of the prisoner. The level of restraint required/allowed by the air carrier is established as corporate policy and varies from carrier to carrier. Other prisoner transportation requirements aboard an aircraft include:

1. Neither the prisoner nor the escort shall be served any alcoholic beverages.

2. Notify the flight attendant if the prisoner is not to be served a meal.

3. At the destination, the investigator and the prisoner must remain seated until all other deplaning passengers have left the aircraft.

The need to fly armed is often misunderstood. For example, attending a training session where the student (investigator) will qualify with the firearm at some time during the week does not require traveling armed.

A telephone call to the airline on the day prior to travel could identify unique requirements and simplify the process for the investigator and carrier. Airline policy on types and uses of restraints may vary.

The investigator should understand that the airlines do not have an obligation to transport prisoners, and a variety of factors may cause a carrier to elect not to accept a prisoner as a ticketed passenger.

No persons, including law enforcement officers, may carry or transport mace, cap-stun, or similar chemicals on any aircraft (including carry-on and checked baggage).

D. Notice to Appear Citations

1. Notice to appear citations can be issued on infraction and misdemeanor law violations at the discretion of the investigator, and when not in conflict with state law or office policy.

2. The "booking required" box should be checked if you desire that the defendant be booked at a later time, at the direction of the Court.

3. The defendant must sign the citation in the appropriate location on the citation. If the defendant refuses to sign the citation, he/she shall be transported and booked.

4. Investigators are required to complete a report pertaining to the arrest following the Bureau's report writing procedure.

5. The notice to appear citation has four copies:

    a. White copy – Original (Photocopy and attach to original report)

    b. Yellow copy – Submitted to Clerks Office for calendaring of case

    c. Pink copy – Defendant's copy

    d. Goldenrod copy – Remains in investigator's citation book

(Adopted 07/11)

INITIATING CASES/REPORTS

I. OPENING CASES

A. When an investigator interviews a complainant and is satisfied a crime has occurred, the investigator may initiate a crime report and open a case. This includes, but is not limited to, special investigations, on-sight violations and arrests, and warrant arrests.

B. In any case where an investigation report number has been drawn, the following procedure shall be followed by all employees:

1. The initial report shall be prepared within the time frame established by each Bureau supervisor.

C. When an investigator is assigned a staff security or inmate security assignment, a case number will be drawn in relation to the assignment.

A staff security report or inmate security report will be completed documenting the request and actions taken to address the situation. The report is also to include the number of investigators and the time involved.

II. DRAWING A CASE NUMBER

Upon being assigned an initial or special investigation, a case number shall be designated at the time of the assignment.

III. TERMINATING AN INVESTIGATION

A Bureau supervisor must review, and approve, the completion of any report and the closure of any investigation.

(Adopted 07/11)

SPECIAL INVESTIGATIONS

I. POLICY

A. It is the policy of the District Attorney that no investigation involving another law enforcement agency, county department, municipal agency or branch of local government shall be conducted without the knowledge, cooperation, request and express consent of the Chief Investigator, District Attorney, department head, administrator or designee of the agency concerned.

1. Exceptions

a. Instances of criminal corruption where the actual administration of that entity or agency is involved and cannot be included or notified because of jeopardy to the investigation, etc.

b. When assisting the grand jury where all matters are confidential.

II. PROCEDURE

A. Informal or In-field Requests

1. Investigative staff shall exercise reasonable judgment when requests are made for assistance by other agencies at crime scenes during call-outs. Other requests for investigative assistance shall be directed expeditiously via channels to the Chief Investigator subject to final approval by the District Attorney or designee.

B. Formal Requests

1. Formal requests for investigative assistance in criminal matters and Officer-Involved Critical Incident Protocol investigations involving another agency shall be requested by the agency Chief, department head or designee directed to the District Attorney or Chief Investigator as expeditiously as possible.

C. All requests, written or verbal, are subject to approval by the District Attorney, the Chief Investigator, or their designees.

D. Refer to Officer-Involved Critical Incident Protocol investigations.

(Adopted 07/11)

APPLICANT BACKGROUND INVESTIGATIONS (SWORN PERSONNEL)

I. POLICY

It is the policy of the Bureau of Investigations to conduct background investigations on candidates applying for peace officer positions.

II. PROCEDURE

When background investigations are conducted for candidates for peace officer the following procedures will be followed:

A. The Background Lieutenant will assign the case to an investigator, and shall assign a suspense date to the file.

B. The investigator will take the following steps to develop the report.

1. Personal History Statement (PHS)

a. Have the applicant complete the POST/San Joaquin County District Attorney PHS for Peace Officers. The applicant will not sign the attached release and waiver unless in the presence of the investigator and Notary Public, as these items must be notarized.

b. The applicant must provide the investigator with the following items:

1. Original birth certificate

2. Original social security card

3. Original/valid driver's license

4. Certified high school and college transcripts

5. Original POST certificate(s)

6. Proof of military discharge, if applicable

7. Applicant's marriage and/or divorce documents, if applicable

c. The applicant will be instructed to complete the PHS, and be given a due date for completion and submittal. The PHS can be typed or handwritten and copies of the PHS may be obtained from the POST web site if needed. The applicant will be told accuracy, honesty, and neatness are essential, and any discrepancies found in the PHS could result in termination of the background investigation.

d. The applicant will be provided with a completed Live Scan form and with instructions on having the form processed. The results are transmitted electronically to the Personnel and Training Coordinator. The results will be placed in the POST Background Investigation File (Section C/D/E).

e. Upon receiving the applicant's completed PHS, the investigator should carefully review each and every page. All documents provided by the applicant will be placed in the POST Background Investigation File under the proper heading. (This can be obtained from the Bureau Secretary).

f. Any negative answers found in the applicant's PHS will be noted in preparation for the investigator's subsequent interviews with the applicant.

2. Interviews

a. Upon interviewing the applicant, it is important to have the applicant explain his/her negative answers fully. Oftentimes when committing thoughts to paper, the applicant will not fully articulate his/her thoughts or simply run out of space to put the thoughts in print. It is extremely important the investigator review the applicant's PHS fully before meeting the applicant to conduct the interview.

b. During your initial interview with the applicant have office staff Notary Public notarize the applicant's completed release and waiver.

3. Investigation

a. During the course of this investigation, the investigator will interview at least three subjects who have worked with or supervised the applicant. They do not have to be the people he/she has listed as contacts on his/her PHS.

b. The investigator should be interested in the applicant's character, work habits, work product, and his/her ability to be a team player.

c. The investigator will also interview at least two subjects who are friends of the applicant, and at least one will not be a member of law enforcement.

d. The investigator will interview at least two of the applicant's neighbors, and view the neighborhood and property of the applicant.

e. The investigator will review the records of the applicant's previous employer, including the applicant's past evaluations, personnel file, job applications, and background file. If applicable, also review the applicant's Internal Affairs file.

f. Check local, State and NCIC databases for wants.

g. Check with local police agencies' records divisions for any incidents.

h. If applicant lives or has lived out of San Joaquin County, check with that County's police agencies for any negative contacts.

4. Reporting

a. The investigator will write the completed investigation report in memorandum form. Format the report as follows:

1. PERSONAL: The applicant's personal information.

2. RELATIVES: List names, addresses, and phone numbers of all family members and their relationship to the applicant.

3. EDUCATION: List the applicant's education starting from high school. Identify any degrees or certificates achieved including POST certificates.

4. EXPERIENCE AND PAST EMPLOYMENT: List all law enforcement experience obtained, including military training and applicable civilian experience. In this section, place the narrative of your investigation for what you located in reviewing the applicant's files and records from his/her previous agency.

5. PREVIOUS EMPLOYER CONTACT: List names, rank/position, agency, and contact information for all those you interview.

6. REFERENCES AND ACQUAINTANCES: List all contact information from those you interview.

7. NEIGHBORS: Include the names and contact information as well as a description of the neighborhood the applicant resides in.

8. DRIVING RECORD: Indicate the validity of the applicant's license, class, and date of expiration. If the applicant has been cited, provide the charge and the result.

9. FINANCIAL: The San Joaquin County District Attorney uses Equifax Credit Services. Run the applicant's credit and review it.

10. LEGAL: List any wants and warrants the applicant has. List any negative contacts located in JDL and/or CJIS. If Live Scan results have been returned, list the outcome. *Under no circumstances shall CII be used to check for the criminal history of an applicant.*

11. PERSONAL INTERVIEW: This will include all interviews and contacts with the applicant. Indicate

the date and time and all questions asked and answered.

12. EVALUATION: In this section address your review of the applicant's qualifications. You must address any negative areas in this section as well utilizing 1031(d) Minimum Standards for Peace Officers as your guide.

b. Submit the full memorandum to the Background Lieutenant for review, along with the POST Background Investigation file. It is not necessary to break the memorandum up into sections for the POST Background Investigation File.

(Adopted 07/11)

APPLICANT BACKGROUND INVESTIGATIONS (NON-SWORN PERSONNEL)

I. POLICY

It is the policy of the Bureau of Investigations to conduct background investigations on candidates applying for non-sworn, paid, and volunteer positions.

II. PROCEDURE

When background investigations are conducted on candidates for non-sworn positions, the following procedures will be followed:

A. The Background Lieutenant will assign the case to an investigator or investigative assistant, and shall assign a suspense date to the file.

B. The investigator/investigative assistant will take the following steps to develop the report.

1. Personal History Statement (PHS)

a. Have the applicant complete the POST/San Joaquin County District Attorney PHS for Peace Officers. The applicant will not sign the attached release and waiver unless in the presence of the investigator/investigative assistant and Notary Public, as these items must be notarized.

b. The applicant must provide the investigator/investigative assistant with the following items:

1. Original birth certificate

2. Original social security card

3. Original/valid driver's license

4. If the applicant is applying for an attorney position, a copy of the applicant's bar card should be made.

a. The investigator will also need to run the bar card information through www.calbar.ca.org.

(This does not apply to unpaid volunteer applicants.)

c. The applicant will be instructed to complete the PHS, and be given a due date for completion and submittal. The PHS can be typed or handwritten and copies of the PHS may be obtained from the POST web site if needed. Inform the applicant about how accuracy, honesty, and neatness are essential and any discrepancies found in the PHS could result in termination of the background investigation.

d. The applicant will be provided with a completed Live Scan form and with instructions on having the form processed. The results are transmitted electronically to the Background Lieutenant and authorized clerical staff.

e. Upon receiving the applicant's completed PHS, the investigator/investigative assistant should carefully review each and every page. All documents provided by the applicant will be placed in the file folder.

f. Any negative answers found in the applicant's PHS will be noted in preparation for the investigator's subsequent interviews with the applicant.

2. Interviews

a. Upon interviewing the applicant, it is important to have the applicant explain his/her negative answers fully. Oftentimes when committing thoughts to paper, the applicant will not fully articulate his/her thoughts or simply run out of space to put the thoughts in print. It is extremely important the investigator/investigative assistant review the applicant's PHS fully before meeting the applicant to conduct the interview.

3. Investigation

   a. During the course of this investigation, the investigator/ investigative assistant will interview at least two subjects who have worked with or supervised the applicant. They do not have to be the people he/she has listed as contacts on his/her PHS. The investigator/investigative assistant should be interested in the applicant's character, work habits, work product, and his/her ability to be a team player.

   b. The investigator/investigative assistant will interview at least two subjects who are friends of the applicant.

      1. This does not apply to unpaid volunteer applicants.

   c. Check local, State and NCIC databases for wants.

   d. Check with local police agencies' records divisions for any incidents.

   e. If applicant lives or has lived out of San Joaquin County, check with that County's police agencies for any negative contacts.

4. Reporting

   a. The investigator/investigative assistant will write the completed investigation report in memorandum form. Format the report as follows:

      1. PERSONAL: The applicant's personal information.

      2. RELATIVES: List names, addresses, and phone numbers of all family members and their relationship to the applicant.

      3. EDUCATION: List the applicant's education starting from high school. Identify any degrees or certificates achieved.

      4. EXPERIENCE AND PAST EMPLOYMENT: List all experience obtained, including military training.

5. PREVIOUS EMPLOYER CONTACT: List names, rank/position, agency, and contact information for all those you interview.

    a. This does not apply to unpaid volunteer applicants.

6. REFERENCES AND ACQUAINTANCES: List all contact information from those you interview.

    a. This does not apply to unpaid volunteer applicants.

7. DRIVING RECORD: Indicate the validity of the applicant's license, class, and date of expiration. If the applicant has been cited, provide the charge and the result.

8. FINANCIAL: The San Joaquin County District Attorney uses Equifax Credit Services. Run the applicant's credit and review it.

9. LEGAL: List any wants and warrants the applicant has. List any negative contacts located in JDL and/or CJIS. If Live Scan results have been returned, list the outcome. *Under no circumstances shall CII be used to check the criminal history of an applicant.*

10. PERSONAL INTERVIEW: This will include all interviews and contacts with the applicant. Indicate the date and time and all questions asked and answered.

11. EVALUATION: A summary of whether the applicant meets the qualifications and criteria for the position.

b. Submit the full memorandum to the Background Lieutenant for review.

(Adopted 07/11)

CERTIFICATES OF REHABILITATION AND PARDON INVESTIGATIONS

I. POLICY

The District Attorney's Office, upon request, shall represent the People's interest when a subject has filed an application for Certificate of Rehabilitation and Pardon pursuant to Part 3, Title 6, of the Penal Code of California (Reprieves, Pardons, and Commutations).

II. PROCEDURE

A. Investigator's Responsibilities

1. Each investigator shall review and be familiar with Part 3, Title 6, of the Penal Code of California (Reprieves, Pardons, and Commutations).

    a. Per Penal Code Section 4852.01(d), the following applicants are not eligible:

        1. Persons serving a mandatory life sentence

        2. Persons committed under the death penalty

        3. Persons serving in the military, and

    b. Persons convicted under the following Penal Code Sections:

        1. Penal Code 286(c)

        2. Penal Code 288

        3. Penal Code 288a(c)

        4. Penal Code 288.5

        5. Penal Code 289(j)

    c. Exceptions

        1. Per Penal Code Section 4852.01(e), the Governor can pardon a person convicted of the following violations, if there are extraordinary circumstances:

a. Penal Code 286(c)

b. Penal Code 288

c. Penal Code 288a(c)

d. Penal Code 288.5

e. Penal Code 289(j)

f. Persons serving in the military

2. Upon the assignment of an application for a Certificate of Rehabilitation and Pardon, a thorough background investigation will be conducted. A report documenting this investigation will be completed and submitted to the requesting DDA (Penal Code Section 4852.11 and 4852.12).

3. The background will start with the Rehabilitation and Pardon General Questionnaire (GQ). This document will be mailed to the applicant or his/her attorney, upon request. This way, the investigator can ensure he/she has a good mailing address for the applicant. The investigator shall attach a letter to the GQ advising the applicant of the completion date for the GQ to be returned to this office.

4. The investigator will conduct an automated records check of the requesting party's criminal history. These checks will focus on any negative/derogatory contacts the applicant may have had with law enforcement subsequent to his/her release from prison/parole. These checks will additionally be directed in the county in which he/she was convicted and where he/she is currently residing. The checks will be made at the minimum through the following automated systems: CLETS, LAWS, ARIES, FCE, CASELOAD EXPLORER, CIBER, CII (Rap Sheet), FBI (Interstate Rap Sheet Identification System), and the San Joaquin County Office of Revenue and Recovery.

5. If the conviction is a welfare fraud conviction, IMPACT should be contacted to determine if any restitution and/or fees were ordered and if they have been paid.

6. These checks will focus at the minimum on additional arrests or convictions, additional periods of probation or parole, additional or

current cases, warrants, and any outstanding fines. A copy of the DA file will be requested for review. If available, obtain a copy of the arrest report. If the case and conviction are from another county, that court will be contacted for a copy of the conviction and sentence.

7. Once the GQ is returned and the minimum records check is made, an interview will be conducted with the applicant. This interview will be face-to-face unless extenuating circumstances exist. The interview shall at the minimum cover the applicant's family history, what they have been doing since their release from parole, why they are seeking this pardon, and the circumstances of their arrest and conviction to include their sentence, where they were committed, and whether or not they had any parole violations.

8. In conducting the investigation, the attached report format shall be utilized. In doing so, all statutory requirements of Part 3, Title 6, of the Penal Code of California (Reprieves, Pardons, and Commutations) will have been thoroughly investigated.

B. The granting of a Certificate of Rehabilitation or Pardon restores to the applicant some of the rights of citizenship which were forfeited as a result of a felony conviction.

1. Certificate of Rehabilitation:

a. Does:

1. Relieve specified sex offender of further duty to register (Penal Code 290.5, as amended 10/07/07).

2. Enhance an ex-felon's potential for becoming licensed by state boards (Penal Code 4853).

3. Serve as an official document to demonstrate an ex-felon's rehabilitation, which could enhance employment possibilities.

4. Serve as an automatic application for a pardon.

b. Does Not:

1. Erase the felony conviction or seal the criminal record (Penal Code 4852.17).

2. Prevent the offense from being considered as a prior conviction if the person is later convicted of a new offense.

3. Allow an ex-felon to answer on employment applications that he/she has no record of conviction.

4. Give an ex-felon the right to vote. This right is automatically restored after termination from probation or discharge from parole.

2. Governor's Pardon

a. Does:

1. Allow an ex-felon to serve on a trial jury (Code Civil Procedure 203, subd. (a)(5)).

2. Allow restoration of firearm right, with federal approval, to specified offenders if granted a full and unconditional pardon, **unless** the conviction was for a felony involving the use of a dangerous weapon (Penal Code 4854).

3. Allow an ex-felon to be considered for appointment as a county probation officer or state parole agent, but not to any other peace officer positions (Government Code 1029).

4. Allow specified sex offenders still required to register after obtaining a Certificate of Rehabilitation to be relieved of the duty to register if granted a full pardon (Penal Code 290.5, as amended 10/07/07).

b. Does Not:

1. Seal or erase the record of conviction (Penal Code 4852.17).

2. Prevent the pardoned offense from being considered as a prior conviction if the person is later convicted of a new offense.

3. Allow a pardoned person to answer on employment applications that he/she has no record of conviction.

4. Restore ability to own a firearm to ex-felons convicted of any offense involving the use of a dangerous weapon (Penal Code 4854).

5. Pardon convictions from another state or federal convictions.

(Adopted 11/10)

PETITIONS TO EXPUNGE INVESTIGATIONS

I. POLICY

The District Attorney's Office, upon request, shall represent the People's interest when a subject has filed a petition to expunge his/her criminal record pursuant to Penal Code §1203.4 (Probationer may withdraw his/her Plea of Guilty or Nolo Contendere) and 1203.4a (Rehabilitation of Misdemeanants).

II. PROCEDURE

A. Investigator's Responsibilities

1. Each investigator shall review and become familiar with Penal Codes 1203.4 (Probationer may withdraw Plea of Guilty or Nolo Contendere) and 1203.4a (Rehabilitation of Misdemeanants).

2. Upon assignment of a petition to expunge a criminal record, a three prong test must be met. The investigator must determine:

   a. Is the defendant currently serving a sentence for any offense?

   b. Is the defendant on probation for any offense?

   c. Is the defendant currently charged with the commission of any crime?

3. Penal Code § 1203.4a does not apply to a misdemeanor that is within the provisions of subdivision (b) of § 42001 of the Vehicle Code, or to any violation of the following Penal Code sections:

   a. Penal Code 286(c)

   b. Penal Code 288(a)

   c. Penal Code 288(c)

   d. Penal Code 288.5

   e. Penal Code 289(j)

   f. Penal Code 261.5(d) (Felony conviction only)

   g. Any infraction

4. Check the date of the hearing.

5. Once the investigator determines the answer to these questions, a report documenting the facts of the investigation will be completed and submitted to the requesting DDA.

   a. The investigator will conduct an automated records check of the Petitioner's criminal history. These checks will focus on any negative/derogatory contacts the Petitioner may have had with law enforcement or the criminal justice system subsequent to his/her release from probation/parole.

      These checks will additionally be directed in the county in which the Petitioner was convicted, and where he/she is currently residing. The checks will be made at the minimum through the following automated systems: AFS, AMOS, CII (Rap Sheet), CLETS, ARIES, LAWS, CIBER, FCE, CASELOAD EXPLORER, DMV, FBI (Interstate Rap Sheet Identification System) and the San Joaquin County Office of Revenue and Recovery. (The reports obtained to provide this information may also include, but are not limited to, the DA file, police arrest reports, parole/probation reports, court documents or statements made in the Petitioner's interview).

   b. These checks will focus at the minimum on additional arrests or convictions, additional periods of probation or parole, additional or current cases, warrants, and any outstanding fines. If available, obtain a copy of the arrest report. If the case and conviction are from another county, that court will be contacted for a copy of the conviction and sentence. Additionally, the law enforcement agencies in that county will also be contacted for any derogatory information they may have on the Petitioner. Any history of immigration violations, deportations, or illegal entry should be noted. If any new arrests or convictions are found, the report will indicate, if available, arresting agency, agency case number, charge(s), court of conviction, court number, and sentence.

   c. In checking the probation status (formal or informal), it should be noted in the report if all court ordered restitution and fines have been paid, and if any court ordered treatment or counseling programs have been completed.

(Caseload Explorer, Probation Department Officer of the Day, or the Office of Revenue and Recovery are good sources).

d. If the Petitioner is required to register pursuant to Penal Code 290, 457.1, or Heath and Safety Code § 11590, this fact will be noted in the report, as well as if the Petitioner is properly registered or not.

e. If the conviction is a welfare fraud conviction, IMPACT should be contacted to determine if any restitution and/or fees were ordered, and if they have been paid.

6. In conducting the investigation, the following format shall be utilized. In doing so, all statutory requirements of 1203.4 and 1203.4a of the Penal Code will have been thoroughly investigated.

(Adopted 07/11)

SAN JOAQUIN COUNTY DISTRICT ATTORNEY'S OFFICE
INTERNET AND COMPUTER USAGE POLICY

I. PURPOSE

The following will give you an understanding of the policies that govern the use of the San Joaquin County District Attorney's Office computer systems. These policies are in addition to San Joaquin County Information Security Policies established for all county employees. Keep this document for your information and reference.

II. INTERNET BACKGROUND

A. The INTERNET is an electronic network, connecting millions of information system users via thousands of computer networks worldwide for the primary purpose of exchanging information electronically. As such, the INTERNET has the capability to:

1. Send electronic mail (eMail) between persons and/or organizations which are not otherwise connected.

2. Transmit information (files), via data uploads and downloads, between persons and/or organizations whose internal communication structures are not connected.

B. The INTERNET also provides access to information resources, including mailing lists on a variety of topics, such as;

1. News Groups;

2. On-Line Library Services;

3. Information Services;

4. Electronic Text Archives;

5. Electronic Journals;

6. Electronic Legal Research Databases

C. The INTERNET is an excellent tool and can provide tremendous assistance to you in the workplace. With this basic and brief explanation of the workings of the INTERNET, please review the following policy and procedures for the access and/or use of the INTERNET at the San Joaquin County District Attorney's Office.

III. POLICY AND SECURITY GUIDELINES

The usefulness of the INTERNET to the DA's office lies in the access and capabilities described above. This access and these capabilities will serve both the administrative and operational interests of the DA's office. However, it is important to stress the use of controls and access to the INTERNET.

The prime advantage of the INTERNET is the ability to communicate with virtually anyone, anywhere. That is also the characteristic that presents the greatest risk to the DA's office. The risk associated with uncontrolled access can have a far reaching impact on the integrity and preservation of our system. Without stringent controls, the access can be both ways, whether or not such was originally intended. To put it more plainly, **IF YOU CAN GET OUT (ELECTRONICALLY SPEAKING), OTHERS CAN GET IN.** Thus, minimizing these risks to the DA's office, its employees, and its information, is paramount. Therefore, there are controls over the use, administration and operation of the INTERNET within the San Joaquin County District Attorney's Office.

With the controls in place, the INTERNET will allow DA employees to access external information networks and information sites, whether they originate from governmental or business sources. The DA employees will access the INTERNET by means of a departmental network with a "firewall". DA employees will have a windows-based computer unit (PC) loaded with **PROFESSIONALLY APPROPRIATE SOFTWARE INSTALLED BY THE DA IT SYSTEMS STAFF ONLY**. The DA unit will include components and software that provide eMail and INTERNET access.

It is the policy of this Office that the DA units have the capability to access eMail and/or the INTERNET. Access through commercial service providers, such as AOL, MSN, CompuServe, Prodigy, etc., is not allowed. Access to personal accounts from commercial service providers from the DA's units is not allowed. Authorized access to eMail and the INTERNET will be at no cost to the DA employee.

It is imperative that the standards, guidelines and security requirements underlying the DA's INTERNET policy be thoroughly understood by any DA employee who is granted access to the INTERNET. **IT IS VITAL THAT ALL DA EMPLOYEES SCRUPULOUSLY ADHERE TO THE DA POLICY GUIDELINES AND PROCEDURES FOR INTERNET ACCESS AND USAGE**. See Addendum A for details of those guidelines and procedures. Violations of any of the rules established in the Internet Usage Agreement, Addendum A, may be used as a basis for adverse administrative and/or disciplinary action.

IV. RULES AND RESPONSIBILITIES

The rules and responsibilities regarding computer usage and INTERNET access via the District Attorney's Network include security and auditing measures. These measures have been established to ensure that any usage does not compromise the system, compromise an operation or otherwise involve improper use. The policies and procedures in this document apply to all District Attorney hardware and software including, but not limited to, DA portable computers and remote access accounts.

Once a DA employee has read and agreed to this document, he or she must submit the **INTERNET Access Request Form** for approval. The Form is provided as part of this policy packet. The Form should be returned to Marc Castillo with supervisor's signature.

V. INTRANET BACKGROUND

The DA's Office computer system is composed of several systems and access to systems via a Local Area Network and Wide Area Network. Services provided by this system include legal research, word processing templates, access to large databases for case management, printing documents, document imaging, and file storage. Each computer has been programmed to service and access all these systems. Each DA employee will be granted access to the systems on an as needed basis and is responsible for the proper use of each system as established in the Computer Use Policy, Addendum B.

ADDENDUM A

I. INTERNET USAGE AGREEMENT

The San Joaquin County District Attorney's Office has established the following guidelines for use of the INTERNET. All employees are expected to read and comply with the enclosed statement of policy. Violations of any of these rules may be used as a basis for adverse administrative and/or disciplinary action.

The INTERNET is not a single network; rather, it is a group of thousands of individual networks that allow traffic to pass among them. The traffic sent out to the INTERNET may actually traverse several different networks before it reaches its destination. It is essential for each employee to recognize his or her responsibility in having access to these vast services, sites, systems, and people. The employee is ultimately responsible for his or her action in accessing the INTERNET.

Use of the INTERNET is a privilege, not a right. Access to the INTERNET may be revoked at any time. This access has been provided to you as a business tool to enhance productivity for business purposes, such as legal research, eMail communications and access to databases in other county or state departments. All employees are responsible for using INTERNET services in a manner consistent with the San Joaquin County District Attorney's Office commitment to the highest professional and ethical standards. The following are examples of **inappropriate** INTERNET usage that will not be tolerated:

1. Accessing anything that negatively depicts race, sex or creed.

2. Accessing anything pornographic.

3. Sending any message that may be perceived as threatening.

4. Sending racially and/or sexually harassing messages.

5. Posting statements or information about the DA's Office, or data for which the DA's Office is responsible, except with written approval by the DA or his designated authority.

6. Conducting personal research or using the DA's INTERNET access for personal gain.

7. Giving anyone else use of your employee account or password.

8. Accessing chat facilities for personal use.

9. Sending chain letters.

10. Copying electronic files without permission.

11. Violating copyright laws.

12. Using equipment or resources to violate any law or perform any unethical act.

13. Performing unauthorized attempts to break into any computer or network.

14. Playing, installing, downloading any games.

15. Establishing any connection for the INTERNET, or service provider, into any DA system, equipment, etc., unless specifically authorized, in writing by the DA or designated authority.

16. Sending or posting confidential materials to any unauthorized people, inside or outside the DA's Office.

17. Sending sensitive or confidential messages to unauthorized recipients.

18. Releasing computer viruses, worms, Trojan horses or similar programs.

19. Taking deliberate action to make a computer system or network unavailable to other employees or users.

20. Loading **ANY** unauthorized software without prior approval. (This includes software from both the INTERNET and/or commercially purchased and installed by the employee.)

21. Using another online Internet Service Provider (e.g., America Online, CompuServe, Prodigy, etc.) other than the DA's Network INTERNET connection from within the DA's Network.

22. Altering, adding or remodeling <u>any</u> hardware components to any DA system.

23. Using Internet Radio or any Streaming Video or Web Broadcasts.

II. GENERAL GUIDELINES

All DA employees approved for INTERNET access are responsible for adhering to established security procedures. It is the Policy of the District Attorney's

Office that all DA employees create and administer their "log-on" passwords. Occasionally these passwords must be shared with DA designated administrative person(s). In conformance with the "Computer Use Policy", the employee's password to access the DA's network, eMail or the INTERNET is to be kept confidential. The security of the system password lies with the DA employee. No DA employee may bypass any of the security controls, nor give out any of his or her access names or passwords, nor post them near the computer so as could be found by unauthorized persons. **All DA employees approved for INTERNET and/or eMail access may have their usage monitored and will be held responsible for use or misuse of his or her account.**

All messages composed, sent or retrieved via the DA's Network connection are County property, and may be reviewed at any time.

MAIL ON THE INTERNET IS NOT SECURE. Never include anything in an eMail message that is sensitive or confidential. Anything written in an eMail message can be read, saved, printed or sent to other people that are not necessarily the intended recipients.

Proper disclosure of DA information should be processed by designated employees of the DA's Office to outside persons or agencies which have made proper requests for correspondence under the Freedom of Information and Public Records Acts.

A. Electronic Mail (eMail)

1. Keep messages short and to the point.

2. Be careful when sending replies - make sure you know whether you're sending to a group or to an individual.

3. Include a signature, which contains your eMail address so that others can contact you. In your signature include a disclaimer:

"This communication contains proprietary business information and may contain confidential information. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately destroy, discard, or erase this communication."

4. Allow automatic virus checking on attached files received via eMail prior to opening them. This normally happens without your being aware of it, but may take several seconds depending on the size and type of the attachment. Call IT Support if you need assistance.

5. Avoid using all capital letters. (A SENTENCE LIKE THIS.) This makes it seem as though you are shouting.

6. Avoid clicking on HyperText links in eMail sent to you from unknown or unsolicited sources. These links are methods by which viruses are spread. Many of these come in foreign languages.

7. Do not register your DA eMail address with unofficial entities (i.e., Shopping Lists, Trivia Sites, Travel) or special Interests not of DA official business.

B. File Transfer Protocol (FTP)

An "FTP" site is a virtual place on the INTERNET where people can access files. For security reasons, it is imperative that no FTP servers be set up on a DA Office computer, unless specifically authorized by the District Attorney or his designated authority. If a DA employee needs to share files, such as through a brief bank, there is an established, secure way to accomplish the task.

C. World Wide Web (WWW)

1. Consider the source when relying on information obtained from a web site. There is no quality control process on the INTERNET, and information may be inaccurate or outdated.

2. Do not publish any DA information on the web without receiving prior approval from the DA or his designated authority.

3. Do not use Internet Radio or Web Broadcasts. These services put an extreme traffic load on our Internet Connection which slows down our normal Internet and Local Network Services.

4. Avoid clicking on HyperText links in pop-ups from unknown or unsolicited sources. These links are methods by which viruses are spread.

ADDENDUM B

I. COMPUTER USE POLICY

To ensure proper use of the DA's Office computer systems, each employee must adhere to a set of guidelines that ensure the continued functionality of each system.

Here are the rules:

1. No personal use of DA computers. Computers are for business purposes only.

2. No personal programs of any kind shall be installed by the employee.

3. No games of any kind shall be loaded or installed on any computer.

4. No additional hardware may be installed by the employee.

5. No modems may be installed.

6. Do not change any of the configuration, installation parameters, or computer settings. The computer has been meticulously programmed to the office standard which provides continuity and consistency so all employees may use any computer.

7. Do not leave your system open for use when it will be unattended. Make sure to lock your workstation by pressing the Start Button + L key combination before leaving your system unattended.

8. Shutdown and power off your system at the end of your work day. This includes any speakers and/or monitors on a separate power source.

9. Passwords must be at least eight (8) characters long and contain both alpha (a through z) and numeric (0 through 9) characters. The system will require you to change your password every 90 days.

10. Personal work files shall be stored in the special "HOME" network drive created for each employee. Any files stored on the local hard drive of the computer unit are not protected and not guaranteed to remain accessible and may be destroyed without notice.

11. Caution when using the Departmental Public Directory. Do not delete any files that you did not create or manage.

12. Do not overload the power strip or outlet where your computer is plugged in. Do not use personal heaters, fans or refrigerators on the same power circuit as the computer.

13. Keep all liquids away from the keyboard, mouse, monitor and computer unit.

14. NEVER CANCEL AUTOMATIC VIRUS CHECKS THE COMPUTER DOES DAILY. YOU COULD UNKNOWINGLY BE INTRODUCING A DAMAGING PROGRAM (VIRUS) INTO THE ENTIRE SYSTEM.

Violations of any of the rules established in the Computer Use Policy, Addendum B, may be used as a basis for adverse administrative and/or disciplinary action. **All DA employees approved for INTERNET/eMail access may have their usage monitored and will be held responsible for use or misuse of his or her account.**

VI. ELECTRONIC MAIL (eMAIL) MANAGEMENT

To ensure better performance of the eMail System, mailboxes need to be properly maintained. Check your eMail **DAILY**, delete any unwanted messages immediately and empty the Trash Folder twice a week. Keep messages remaining in your mailbox to a minimum. Save important eMail and attachments to your network home folder. Do not give your eMail address to anyone you do not want to send you eMail. If you register your eMail address with any automatic eMail subscription service where you receive periodic eMail automatically from the service, you must unregister the service when you leave employment or when you no longer need the service. This type of registration must be of business nature only. No registration for store sales, accounts notification etc. If you do not use your eMail account, it may be deleted after 45 days of inactivity. eMail, Appointments and Tasks that are older than 370 days will be automatically deleted by the weekly system maintenance process that runs at 10:00 P.M. every Saturday. eMail has a 60K size limit to constrain the spreading of eMail viruses. If you need to receive eMail that is larger than 60K, please contact Marc Castillo.

Access to DA's Office computer systems and network is requested by filling out a **Network Access Request** form. This form provides the information needed to create a network access account for the employee. The Form is a separate sheet in this packet. The form should be returned to Marc Castillo with supervisor's signature.

VII. SUPPORT

Should the computer cease to function properly or you need assistance, you should call the IT support line.

COMPUTER USE AGREEMENT

Anyone given the privilege of using San Joaquin County District Attorney's Office computing and information resources is expected to act in a responsible manner by complying with all policies, relevant laws, and contractual agreements related to computers, networks, software, and computer information.

I have read, understand and agree to comply with all of San Joaquin County District Attorney's "COMPUTER USE POLICY". I understand that violators of this policy may be subject to appropriate disciplinary action up to and including termination of employment, termination of agreements, denial of service, and/or legal penalties, both criminal and civil. Disciplinary actions for County staff are defined in San Joaquin County Civil Service Rules and Regulations [Rule 18] and the County's Administrative Manual. **I understand that all DA employees approved for INTERNET and/or eMail access may have their usage monitored and will be held responsible for use or misuse of his or her account.**

By signing this form, I agree to abide by the policies currently in place and agree to periodically review any changes or modifications. I understand that policies and updates to policies are located on the DA's Intranet for review.

_____
(Print Name)

_____ Dated: _____
(Employee Signature)

INTERNET ACCESS USE AGREEMENT

I have read the San Joaquin County District Attorney's "INTERNET USAGE POLICY AND SECURITY GUIDELINES' and the "INTERNET USAGE AGREEMENT" and agree to abide by those conditions and herein request permission to use the DA's access to the INTERNET in accordance with my assigned duties. **I understand that all DA employees approved for INTERNET and/or eMail access may have their usage monitored and will be held responsible for use or misuse of his or her account.**

_____
(Print Name)

_____ Dated: _____
(Employee Signature)

Employee Internet Access Supervised By:

_____ Dated: _____
(Supervisor Signature)

(Adopted 07/11)

COMPUTER CRIME/DIGITAL EVIDENCE UNIT

I. PURPOSE

A. The Computer Crime/Digital Evidence Unit (CDEU) exists to assist allied law enforcement and prosecutors with the investigation of computer crimes, digital evidence collection and forensic analysis. The core mission of the CDEU is to protect the public by assisting law enforcement in the apprehension and prosecution of subjects involved in computer facilitated child sexual exploitation, violent crime, fraud and high-technology crimes.

II. PERSONNEL

A. Due to budget cuts, there are no personnel currently assigned to this unit. If staffed, the unit will be comprised of investigators and a Lieutenant as ordered by the Chief Investigator.

III. ADMINISTRATIVE

A. Software Licensing: All software utilized by members of the CDEU will be properly licensed to our agency or members who are assigned to the Unit. The use of shareware or open source software is authorized if the software has been validated.

B. Training: All Personnel must complete the minimum following technical courses in chronological order before, or shortly after, assignment to the Unit:

1. POST Basic Investigation of Computer Crime or equivalent

2. POST Computer Evidence Digital Recovery Course or Basic Data Recovery Course equivalent (SEARCH/FLETC)

3. POST Intermediate Computer Forensics Course - Forensic Software course (EnCase) or equivalent

4. POST Advanced Computer Forensics Course - Linux or equivalent

5. SEARCH Cell Phone Data Recovery course or equivalent

IV. SERVICE REQUESTS AND CASE INTAKE

A. Services Provided

1. DA Office

    a. Pre- and post-complaint investigations of computer-facilitated crimes including child sexual exploitation (manufacture/distribution of child sexual exploitation images, kidnap/luring of minors), identity theft, fraud and the misuse of computer networks and databases.

    b. Trial Preparation support and testimony regarding digital evidence analysis, cellular telephone device examination and Internet research, social networking site investigations (upon special request and approval of CDEU Lieutenant).

2. Outside Law Enforcement Agencies:

    a. CDEU may provide assistance with the investigation of computer facilitated crimes involving child sexual exploitation (manufacture/distribution of child sexual exploitation images, kidnap/luring of minors), identity theft, fraud and the misuse of computer networks and databases.

    b. Upon special request and approval by the CDEU Lieutenant, the Unit can provide digital evidence recovery and forensic examination of cellular telephone devices, handheld electronic devices and computers for outside law enforcement agencies.

    c. All investigative matters referred to the CDEU by allied agency investigators must have the prior approval of their investigative supervisor before adoption by CDEU. The CDEU reserves the right to pursue or decline investigative matter referrals if the allied agency disagrees with the recommended course of action by the District Attorney or CDEU members.

B. Case Intake

1. Procedures

    a. All internal and external requests for CDEU assistance will be submitted on a Forensic Service Request form. No devices will be accepted by CDEU unless accompanied by a completed Forensic Service Request form.

b. CDEU investigators are required to:

1. Identify the legal authority for the forensic examination request.

2. Ensure there is a completed request for assistance.

3. Completely document the chain of custody.

4. Consult with the case investigator/prosecutor regarding the facts of the case;

A. Discuss alternative forensic processes if required (i.e. fingerprinting/D.N.A. etc.)

B. Discuss pursuing alternative investigative avenues, preservation orders, ISP search warrants, etc. and responsibility for follow-up orders.

C. Determine the types of potential evidence sought.

D. Determine additional information regarding the case; (i.e., e-mail accounts, e-mail addresses, ISP used, passwords, interviews of system administrators, users, employees, etc.)

E. Skill level of target, encryption/steganography

F. Factors to consider for onsite examination of digital evidence, (i.e. business network, offsite storage, etc.)

G. Explore legal considerations: ECPA, CCPA, PPA for each case.

c. CDEU will not accept custody of any peripheral devices (i.e., keyboards, monitors, mice) unless the items are necessary to complete the requested examination.

d. No items will be accepted without copies of corresponding police reports, search warrant(s) or CDEU consent to search forms.

e. All submitting agencies must document and disclose to CDEU whether or not any post-seizure examinations of devices have occurred. Though perhaps not fatal to a case, these actions may alter last accessed date and time stamps and other data on the original media and must be disclosed to CDEU examiners.

2. Evidence Assessment

a. All items submitted to CDEU will be inventoried on Bureau of Investigations evidence forms pursuant to the Property and Evidence policy and will be stored in the lab until the case is completed.

b. CDEU investigators will carefully evaluate all digital evidence devices for additional forensic evidence, such as fingerprints, hair or fibers in the keyboard, or other DNA related evidence, if necessary depending on the needs of the investigation, prior to examination or imaging.

c. All materials depicting minors in sexually explicit images (child pornography) will be submitted to CDEU personnel and maintained under a strict chain of custody at the CDEU lab. Prosecutors are prohibited from previewing these images on any computer other than a CDEU preview station at DAI. Child pornography images will not be duplicated for discovery unless ordered by the court pursuant to Evidence code section 1054.10.

d. If CDEU is conducting a joint federal child sexual exploitation/ child pornography investigation with the United States Attorney's Office and FBI, no child pornography materials will be released to the defense pursuant to Federal law. Instead, the CDEU shall copy the evidence files (E01) or image files (DD) of the suspected hard drive onto a wiped drive and provide this drive to FBI CART agents. Federal defenders may preview this evidence on a CART workstation at their local FBI office. At the conclusion of the prosecution, the FBI shall return the hard drive to CDEU for wiping.

e. At the conclusion of a case, the hard drive containing evidence shall be wiped using the Logicube Forensic Talon device or other approved device. The investigator will

document the case closure and erasure of the hard drive by placing a copy of the Logicube verification log file report within the CDEU lab case file.

f. Upon conclusion of the investigation or prosecution, all submitting agencies agree to pick up adjudicated evidence within 7 days.

V. CASE MANAGEMENT

A. Case Priority Criteria

1. CDEU will prioritize service requests and render investigative assistance in the following order:

a. Public safety emergency situations such as active child sexual exploitation, hostage/kidnapping, online child luring, homicide, armed robbery, violent crime or fugitive investigations.

b. National Security matters in conjunction with the FBI.

c. Investigations of child sexual exploitation/child pornography.

d. Post-complaint investigative assistance in Felony matters such as Homicide, ADW, Sexual Assault, Robbery, Fraud, pending trial.

e. Pre-complaint investigative assistance of Felony matters such as Homicide, ADW, Sexual Assault, Robbery.

f. Public Corruption/Internal Affairs/Red File investigations.

g. Misdemeanor violations on a case by case basis with approval of the CDEU Lieutenant.

B. Records

1. Each investigative matter handled by CDEU will be maintained in a case folder within the lab under the appropriate case number, with a copy of the examination reports placed in the Bureau of Investigations main case files.

a. CDEU case files should contain:

1. Forensic Service Request

2. Crime Reports

3. Search Warrant(s)

4. Examiner notes

5. Photographs of device/evidence

A. Digital Photographs should include overall and close up images of model, serial number and manufacturer labels.

B. Child Sexual Exploitation images will not be printed, transmitted over the DA network or viewed on non-CDEU computers. (The viewing of digital image files will often leave remnants of the image on hard drives).

C. Child Sexual Exploitation images shall be exported onto a DVD or CD for delivery to an authorized Immigrations and Customs Enforcement agent for inclusion into the known victim database maintained by the National Center for Missing and Exploited Children, Washington D.C.

D. Child Sexual Exploitation images may be archived onto a DVD or CD for the CDEU case file with a clear warning label that possession of this material is restricted by law.

6. For all ICAC or child pornography investigations, the CDEU investigator shall obtain a certified copy of the birth certificate for each child victim identified in the investigation for inclusion in the lab files.

7. Backup DVD/CD discs of DD or E01 evidence files and case files.

8. Upon conclusion of the case, Logicube verification log file printout of hard drive/media wiping with initials of CDEU examiner and date.

VI. INVESTIGATIONS

A. Undercover operations

1. All undercover operations will be approved by the CDEU Lieutenant and Chief Investigator prior to activation.

2. No undercover investigations shall be conducted on employee owned computer systems or on off-duty hours.

3. With approval from a Lieutenant, CDEU investigators are authorized to create undercover identities and profiles to assist with investigations or operations.

B. Internet Crimes Against Children (ICAC)

1. All CDEU Investigations of computer facilitated child sexual exploitation will follow the national ICAC Task Force investigative guidelines. CDEU reserves the right to conduct parallel and exclusive investigations of ICAC crimes if a referral law enforcement agency declines to follow the recommendations of the District Attorney or ICAC task force.

2. ICAC referrals will be de-conflicted through the Sacramento Valley High Technology Task Force prior to initiation of an investigation.

VII. CASE PROCESSING

A. Evidence Acquisition

1. CDEU investigators are required to acquire the original digital evidence in a manner that protects and preserves the evidence in accordance with the following guidelines:

a. Document the hardware and software configuration of the examiners system.

b. Verify operation of the examiner's computer system and software.

c. Photograph the device prior to examination.

d. Disassemble the case of the computer to be examined to permit access to the storage devices/media.

e. Document internal storage devices and hardware configuration.

1. Drive condition, make, model, geometry, size, jumper settings, drive interface, country of origin.

2. Identify existence of internal components, i.e. sound cards, video cards, network interface cards, media access control addresses, physical memory (RAM).

f. Conduct controlled boot and capture CMOS/BIOS time/date settings, boot sequence, power on passwords.

g. Remove storage device and utilize hardware write blocking device to image drive, E01 or DD image to clean lab destination hard drive.

h. Verify acquisition hash signatures of copy and original media.

i. Safeguard media from electrostatic damage by use of anti-static evidence bags prior to booking in lab cabinet.

B. Evidence Examination

1. General forensic principles apply when examining digital evidence. Forensic examination will only be performed by CDEU investigators who have completed forensic examination training. Forensic analysis is not permitted on non-CDEU computers at any time.

a. Prepare working directories and case folder on destination lab drive:

1. Case Name

A. Export

B. Temp

C. Reports

b. Perform extraction of data with forensic software:

1. Physical Extraction

A. The extraction of data from the drive occurs at the physical level regardless of the file systems present on the drive.

2. Logical Extraction

A. The extraction of data from the drive is based on the file system present on the drive.

c. Analysis of Extracted data

1. Analysis is the process of interpreting the extracted data to determine their significance to the case. Some examples of analysis that may be performed include time-frame, data hiding, application and file, ownership and possession. Analysis may require a review of the request for service, legal authority for the search, investigative or analytical leads.

A. Time Frame Analysis

1. A review of the time and date stamps contained in the file system metadata to link files of interest to the time frames relevant to the investigation.

2. A review of system and application logs that may be present, error logs, installation logs, security logs, etc.

B. Data Hiding Analysis

1. Data hiding analysis is useful in detecting and recovering data which may indicate knowledge, ownership or intent.

C. Application and File Analysis

1. Programs and files identified may contain information relevant to the investigation and may provide insight into the capability of the system and knowledge of the user.

D. Ownership and Possession

1. It may be essential to identify the individuals who created, modified or accessed a file or questioned data.

C. Documenting and Reporting

1. CDEU examiners are responsible for completely and accurately reporting his or her finding and the results of the analysis of the digital evidence examination. All documentation should be complete, accurate and comprehensive.

2. Examiner notes should be contemporaneous with the examination and retention of notes consistent with departmental policy.

3. Report Format

a. The following report format is a suggested guideline:

1. Introduction

2. Summary of findings

3. Identification of items analyzed

4. Legal authority for examination

5. Details of findings (if applicable)

A. Identify specific files related to the request.

B. Other files, deleted files that support findings.

C. String searches, keyword searches, text string searches.

D. Internet related evidence, chat logs, cache files, e-mail and news group activity.

E. Graphic image analysis: Note child pornography images will not be included in the report.

F. Indicators of ownership.

G. Data analysis, descriptions of programs on examined items, techniques used to hide or mask data, encryption, steganography, file name anomalies.

6. Supporting materials such as EnCase reports.

7. Glossary

8. Identification of software utilized in examination.

D. Peer Review

1. All analysis reports will be reviewed by fellow CDEU members and approved by the CDEU Lieutenant for quality control prior to dissemination.

(Adopted 07/11)

COMPUTERIZED VOICE STRESS ANALYZER (CVSA) AND POLYGRAPH EXAMINATIONS

I. PURPOSE

Computerized Voice Stress Analyzer (CVSA) and Polygraph examinations are investigative tools used to establish credibility and truthfulness of the subject to be examined.

II. POLICY

It is the policy of the Bureau to coordinate CVSA and Polygraph examinations upon the request of a deputy district attorney or when deemed necessary to a case or investigation.

III. PROCEDURE

A. CVSA

1. When receiving a request to coordinate a CVSA examination, contact the local agency who is responsible for the case to use an examiner from that agency to perform the exam. If there are no available examiners at that agency, ask for assistance from Stockton Police Department or the San Joaquin County Sheriff's Office.

2. All examinations must be performed with the full cooperation of the subject being examined.

B. Polygraph

1. When receiving a request to coordinate a Polygraph examination, contact a local private vendor to perform the examination.

(Adopted 07/11)

COURT-ORDERED LINEUPS

I. PURPOSE

The Bureau of Investigations is involved in conducting court-ordered post-complaint lineups.

II. POLICY

It is the policy of the Bureau of Investigations to carry out this function with the concurrence and cooperation of the San Joaquin County Sheriff's Department.

III. PROCEDURE

A. Obtain copy of court order compelling lineup (obtained by assigned DDA or defense attorney).

1. The court will issue an order, written or oral, setting both a definite time and date for the lineup or a time limit within which the lineup must be held.

2. The order will set out any special conditions that must be followed, e.g., Probation Department to assist regarding juvenile lineups; the Sheriff's Department to assist regarding transportation.

B. Contact the Sheriff's Department Classification Sergeant, Custody Division, for assistance regarding lineups. Confirm date and time of lineup.

a. Sheriff's Jail personnel will handle all inter-departmental procedures for obtaining lineup participants from the jail population.

b. Sheriff's Jail personnel shall be notified a minimum of five (5) days in advance of lineup taking place. Exceptions will be made with a showing of good cause with consideration given to the needs of the jail facility.

c. The investigator coordinating the lineup is required to provide any special items such as hats, bandannas, or other unusual apparel to be worn by each subject in the lineup.

2. Inmate Participation

a. Inmate participation in a lineup is strictly voluntary.

b. Any inmate in special housing must be cleared prior to participating in a lineup and may be ineligible to mingle with other inmates.

c. Inmates with medical limitations, such as medical isolation, and inmates classified to a high-risk, dangerous status will not be the subject of a lineup at the jail facility.

C. Contact Witnesses

1. Advise witnesses of the time and date of the lineup.

a. Ascertain any transportation or language problems.

2. The investigator shall make all necessary arrangements for required witness transportation.

a. The investigator should attempt to obtain the assistance of the investigating police agency's personnel in transporting witnesses.

3. The investigator will be responsible for providing interpreters when needed for non-English speaking witnesses.

a. The interpreter must provide the witnesses with lineup instructions as they are presented in English by the Sheriff's personnel. On occasion, it may be necessary for the investigator to obtain interpreters for more than one language at a lineup.

b. When possible, on-duty Sheriff's personnel, who are competent to interpret a given language, may be able to assist in conducting the lineup. When such assistance is needed, the employee's supervisor must be advised in a timely manner prior to the lineup being conducted.

D. Contact the Defense Attorney

1. Advise the defense attorney of the exact time and date of the lineup (*US v. Wade*, the defendant is entitled to counsel at a lineup).

    a. The defense attorney is entitled to reasonable notice (preferably 48 hours) prior to the lineup. This will allow time for the defense attorney to arrange his/her schedule if so desired. If the defense attorney is not present at the scheduled time, the lineup shall proceed without him/her.

    b. Remind the defense attorney his/her position at the lineup is that of a silent observer (*People v. Bustamante, 1981, 30Cal.3d. 88, 99 N7*). (Allow defense attorney to make reasonable suggestions).

E. Witness Meeting Place

1. When appropriate and feasible, arrange to meet all witnesses at a common location prior to the time of the lineup.

    a. Reasons:

        1. To alleviate having stragglers.

        2. To provide security to and from the lineup area.

        3. To create rapport with witnesses.

2. Proceed to San Joaquin County Jail.

    a. There is a lineup viewing room at the San Joaquin County Jail, which is located in the office area of that facility.

F. Procedures for Witnesses During the Lineup

1. Sign the logbook.

2. Listen to the instructions given by the Sheriff's Deputy conducting the lineup.

    a. The interpreter will advise the non-English speaking witnesses of all instructions.

G. Duties of the Investigator During the Lineup

1. The investigator shall not pick the participants in this lineup. This will be done by the classification officer.

    a. Record names and identification numbers of the inmates used in the lineup.

    b. The investigator shall view the lineup prior to the witnesses in order to alleviate any problems, e.g. possible discrepancies in the appearance of the subjects in the lineup.

2. Photograph the lineup prior to the witness viewing.

    a. Obtain a copy of the lineup photo.

    b. Provide a copy of the photo to the defense attorney under discovery order.

3. Record names of the Deputy District Attorney(s), defense attorney(s), and any law enforcement personnel or witnesses present.

4. Confirm that each witness has received a Witness Lineup form.

    a. Allow only one (1) witness at a time in the viewing room.

    b. Collect each form at the conclusion of the lineup and have the defense attorney initial it to prove he has seen it.

        1. The defense attorney is entitled by case law to examine all lineup slips.

        2. Provide the defense attorney with a copy of the lineup slips if requested.

        3. Book the lineup slips for evidence.

5. When necessary, remind the defense attorney he/she is "merely present at the lineup to silently observe" (*People v. Bustamante*, *supra*). (Allow defense attorney to make reasonable suggestions).

a. The investigator or Sheriff's personnel will usually admonish a defense attorney when appropriate to do so.

6. Provide the witnesses with any requested information of future legal proceedings.

7. Do not discuss the lineup selection or the outcome of the lineup.

8. Provide any security or transportation needed by the witnesses.

9. Prepare a typed report or all lineup proceedings for future criminal action.

a. The investigator may be called as a witness in regards to defense arguments of alleged improprieties at the lineup.

H. Attorney Contact with Inmate/Extras

Attorney movement will be restricted within the jail facility. Photographs and attorney contact with the suspect and extras may take place on the inmate side of the lineup side of the lineup room and the two interview rooms directly across from the lineup room.

I. Reports

1. When generating the written report at the conclusion of the lineup, the investigator will list who requested the lineup be conducted: (the defense or the prosecution).

2. The investigator shall also list the total number hours needed to conduct the lineup and list this at the bottom of the report.

NO EXCEPTIONS

Sheriff's personnel request a lineup not be held when the defendant is to appear in court so his physical appearance will be "natural", e.g., not dressed in special clothes, clean shaven, etc.

If officers from several departments are to be present at the lineup, they should confer together before the lineup in order to establish who will give directions to the witnesses. This preparation is necessary to alleviate confusion.

J. Non-Custody Lineups

1. Note: The Custody Division of the Sheriff's Department will not accommodate non-custody lineups at their facilities.

NOTE: The Sheriff's Department will conduct lineups after 1800 hours on day(s) designated by Classification Sergeant.

(Adopted 07/11)

SUBPOENA SERVICE

I. POLICY

District Attorney Investigators and Investigative Assistants are often required to serve documents related to criminal and civil filings.

II. PROCEDURE

A. In-County Subpoena Service

1. When assigned a case for document service, attempted service shall be performed within a timely manner or before the court date listed. The Service Order Request will have the requested items needed for the Deputy District Attorney to complete their case for trial.

   a. Read the police report (determine if any language issues exist).

   b. Obtain driver's license(s) and photo(s) of victim(s) and witness(es), if available.

   c. Check for criminal history and warrants.

   d. Attempt service of documents, and keep a detailed record for Due Diligence Report.

   e. Write a report upon completion of service and list all victim(s)/witness(es) on the report.

2. A Due Diligence report details the due diligence efforts made when unsuccessful in serving the documents. The Due Diligence report does not contain any statements obtained during the service of the documents. All statements obtained must be on a supplemental report.

B. Out of County Subpoena Service

1. Contact the District Attorney's Investigations Bureau in the county of your witness and request their assistance. Your fax request should include the following:

   a. Subpoena

b. Copy of police report

c. Criminal history (if applicable)

d. Driver's license photo (if available)

e. Pertinent information regarding the witness (e.g., hostile, compliant, or avoiding service)

f. Type of case and if person to be served is a victim or witness

2. All available information on the person(s) to be served should be sent to assist the outside agency in the serving of the documents.

3. Complete and submit a report to immediate supervisor by the established deadline.

C. Behavioral Health Services Subpoena Service

1. When the subject of a subpoena service is a client of San Joaquin County Behavioral Health Services, contact the Clinical Records Department. You will be directed to the appropriate program and case worker for contact with the client.

(Adopted 07/11)

OUTSIDE SUBPOENA SERVICE REQUESTS

I. POLICY

The Bureau of Investigations will assist other District Attorney's Offices with reciprocal subpoena service in our jurisdiction whenever possible. The following procedures will be required in order to facilitate these requests.

II. PROCEDURE

A. If the request is urgent or less than one (1) week before the hearing date, agencies must contact the Bureau secretary.

B. Fax the following documents (call Bureau secretary for fax number):

1. Subpoena(s) and Proof of Service form(s)

2. Police Report segment that describes involvement of witness.

3. CDL-Driver License printout and photograph, whenever possible.

C. Fax Cover sheet must contain:

1. Telephone number of requestor: (Direct Line, cell phone, Fax)

2. Description of witness (include CDL, printout/photo, DOB, CII/FBI#, if known)

3. Whether or not there are outstanding warrants for the witness(es).

4. History of violence or resisting arrest.

5. Reason for personal service:

a. Witness is uncooperative/hostile.

b. Witness is associate/relative of the defendant.

c. Witness is uncharged accomplice.

d. Short notice (one (1) week or less) before hearing date.

D. Due Diligence Report

1. Complete and submit a report of the service or service attempts in a report and forward a copy to the requesting agency.

(Adopted 07/11)

CIVIL DOCUMENT SERVICE

I. POLICY

In addition to the service of subpoenas, District Attorney Investigators may be required to serve documents related to Civil Filings.

II. PROCEDURE

A. There is no distinction between serving criminal or civil documents as the ultimate goal is to locate and deliver the intended document in a timely manner. At the time of the service, it is important to note who is being served (if it is other than the named individual, a successful service may then include a spouse, parents, and attorney). The time, date, and location of the service is essential information as this needs to be included in the Proof of Service documents prior to them being filed with the court.

B. It is recommended that local databases be checked for prior law enforcement contact before the attempted service. No CLETS access is authorized on matters filed civilly.

C. A report shall be written which details the due diligence efforts made when a service was not successful and the facts of the service when the service was successful. Minimally, the report should include the name, location, date, and time of the service as well as the title of each document served.

(Adopted 07/11)

RECORDED PRESERVATION OF TESTIMONY

I. POLICY

A. General Statement

Criminal prosecution of elder and dependent adult abuse cases present unique prosecutorial challenges including victim unavailability due to death or incapacitation, resulting from advanced age, a decline in cognitive capability and/or physical conditions and limitations. Preservation of victim testimony at a preliminary examination, which can later be introduced as evidence at trial if necessary, may prove critical in the event the victim passes away or becomes otherwise incapacitated. Testimony preserved by recording provides for an audio and visual representation of the event such that a jury can see and hear the victim as they were at the time.

The policy of the San Joaquin County District Attorney's Bureau of Investigations shall be to facilitate the preservation of victim and/or witness testimony in elder and dependent abuse cases, as well as any other case for which circumstances dictate, by means of recording and upon request of the prosecuting Deputy District Attorney.

II. PROCEDURE

A. The Prosecuting Deputy District Attorney will submit a completed Bureau of Investigations Service Order Request for preservation of testimony.

B. The Mainline Unit Lieutenant, or other Lieutenant in his/her absence, shall review the service order for content and assign the task to a Bureau of Investigations staff member.

C. The Bureau of Investigations staff member assigned shall perform the following prior to the scheduled court date:

1. Communicate with the Prosecuting Deputy District Attorney and confirm:

    a. The exact date and time of the testimony to be preserved.

    b. The courtroom in which the victim will be testifying.

    c. Any special considerations.

2. Inspect the recording equipment prior to arriving in court to ensure it is functioning properly.

D. The Bureau of Investigations staff member assigned shall conduct the recording in court as follows:

1. Prior to the victim's testimony, load the Secure Digital (SD) card into the camera in the presence of the Judge, Deputy District Attorney and Defense Counsel. The Deputy District Attorney can explain the necessity of this procedure to the Court, if required.

    a. Repeat the aforementioned procedure in the event there is a need for subsequent SD cards to capture the entirety of the testimony.

2. At the conclusion of the victim's testimony, the SD card will be returned to the Bureau office and the testimony will be transferred onto DVD.

    a. Transfer the original media files onto DVD and label this disc as the "original".

    b. Next, transfer the "viewable" copy of the media file(s) onto DVD.

    c. Place both DVD's in a sealed manila envelope, and provide it to the Clerk of the Court to be retained in the Court file.

    d. Per § 1344 Penal Code, the recorded testimony is to be turned over to the Clerk of the Court in which the action is pending, or may come for trial.

        1. List the following information on the outside of the envelope:

            A. Defendant's name

            B. DA Case number

            C. Court Case number

            D. Testimony of (W) [name]

            E. Date of testimony

F. Number of DVDs enclosed

e. If the DVD's cannot be created and returned to the Clerk of the Court on the same day:

1. Contact the Clerk's Office to determine where the court file is located.

2. If court file is still in courtroom, provide the sealed envelope to clerk in the courtroom, request it be placed in the court file, and obtain the clerk's name for the report.

3. If court file is in Clerk's Office, provide the sealed envelope to the clerk there, request it be placed in the court file, and obtain the clerk's name for the report.

(Adopted 07/11)

PROPERTY AND EVIDENCE

I. POLICY

A. The Property Room (PR) shall be responsible for the intake, storage, and disposal of all property received by the Bureau of Investigations, which is stored as evidence, found property, taken by search warrant, held for safekeeping, or turned in for destruction.

B. The PR is charged with the responsibility of maintaining an accurate record of all property which comes into its custody as well as the disposition of the property.

II. LAW

A. By law, a Law Enforcement Agency is responsible for maintaining any property that was seized, property that was found, and property that was surrendered.

B. The release of such property shall be in accordance with Federal, State, and local laws.

III. CLASSIFICATION OF PROPERTY

A. All property assigned to the PR for storage shall be classified as either evidence, found property, held for safekeeping, or as taken by search warrant.

B. Definitions

1. The following definitions refer to classifications used in processing and disposing of property and evidence that comes under the control of the Bureau of Investigations. Under no circumstances will firearms, narcotics, or hazardous materials be physically booked into the Bureau's PR.

    a. Evidence: Property which may be related to a crime, or which may implicate or exonerate a person of a criminal charge.

    b. Found Property: Non-evidentiary property, which after coming into the custody of a law enforcement agency, has been determined to be lost or abandoned and is not known

or suspected to be connected with any criminal offense (Sections 2080-2080.7 of the California Civil Code).

1. Found property does not include intentionally abandoned property (2080-2080.7 of the California Civil Code). Discarded items are not found property.

2. Dispose of discarded items—never submit to Property.

c. Property held for safekeeping: Non-evidentiary property which is placed in the custody of a law enforcement agency for temporary protection.

1. Other property is generally addressed in Sections 1412 and 1413 of the California Civil Code.

d. Property taken by Search Warrant: Property which is held by a court-ordered search warrant. This includes all items listed on the search warrant inventory (Section 1536 of the California Penal Code).

C. When property that is originally booked as non-evidence, i.e. found property or held for safekeeping, is later connected with an arrest or crime, it is the investigator's responsibility to edit the original property record to reflect the reclassification as evidence.

IV. BOOKING OF PROPERTY/EVIDENCE

A. Booking Officer's Responsibility

1. For the purpose of this Order, the term "Booking Officer" (BO) shall mean the employee who enters the information in the Revolution Bar Code System.

2. All property or evidence which is not to be immediately released, and which is not essential to an immediate investigation, shall be placed by the BO in an intake locker in the PR, or booked directly into the PR by a Property Officer (PO) if too large to fit in lockers, prior to the completion of the BO's shift.

a. At no time shall any employee or investigator retain personal possession of any property or evidence taken into custody, nor shall any evidence or such property be stored inside, or

on top of any employee's personal locker or desk, nor shall such property be left unattended.

b. Prior to seizing large amounts of evidence the Investigating Officer (IO) shall notify a PO and make arrangements for a PO to assist with the use of the mobile Revolution laptop.

3. In order to minimize chain of custody concerns, together with protecting trace evidence from loss and contamination, the following guidelines are established for the submission of evidence/ property items booked into the PR.

   a. All evidence/property shall be appropriately itemized, packaged, sealed, initialed (I.D. number), and dated. All items will be sealed appropriately to prevent access to its contents without such access being detected. The following applies:

      1. Paper bags and clasp envelopes shall be sealed with evidence tape. STAPLES ARE NOT ALLOWED.

      2. Plastic bags will be sealed by folding over the open end and using evidence tape to secure the body of the bag.

      3. Boxes shall be sealed by putting evidence tape over the top and around the body of the box.

4. All Property Records must include a Bureau of Investigations case number.

5. When submitting a report, an appropriate entry shall be made by the officer indicating the circumstances surrounding the officer coming into possession of the property as well as the Property Record number.

6. Property Records may only be voided by PR personnel.

7. In the event an item(s) requires processing for latent prints, the booking officer shall attach a "**WARNING – LATENT FINGERPRINT EVIDENCE, DO NOT TOUCH"** label to the bag or envelope containing the item(s).

a. Lockers are accessible for storage twenty-four (24) hours a day, seven (7) days a week.

b. All money shall be placed in the mail-slot safe.

8. BO's who take into custody property/evidence which is large in size, i.e., anything larger than a small portable television, and only when the victim/owner is known, the following shall apply:

a. List the item(s) on a Property Record.

b. Contact the property owner to come to the Bureau at their earliest possible convenience to pick up the property.

1. The PR will release property to the public by appointment only between the hours of 9:00 AM to noon and 1:00 PM to 4:00 PM, Monday thru Friday.

2. The BO has to arrange the appointment and be present for the release of the property, as per policy.

c. Upon the property owner's arrival, and under the direction of the investigator/booking officer, the Property Record shall be signed off prior to the release of property.

1. The releasing officer shall document the release of the property/evidence by including such information on a report.

d. A photograph of the property and owner together will be taken prior to release of property.

1. The releasing officer shall book the photograph.

2. If the property is released at the scene, a photo will be taken of the property and the person it was released to. This photo will be booked into the PR.

e. The victim/owner shall be informed to maintain possession of the property until such time as an investigator or a representative of the District Attorney's Office advises the case has been adjudicated.

9. Property/evidence which is large in size, wherein ownership cannot be shown, shall be booked and maintained in the PR until such ownership is determined. Booking of these items must be coordinated with a PO.

    a. Subsequent release of said property shall be handled by the Investigator responsible for the investigation.

10. In special circumstances, a Lieutenant or above may authorize the use of other secure storage areas for large items until other arrangements can be made.

    a. The Property Record shall indicate the location of the item stored.

11. When any money is booked in as evidence, it will be counted first by the BO and then by another investigator or investigative assistant.

    a. The BO will enter into Revolution the amount of money being booked.

    b. If money is taken after the hours of 8:00 AM to 4:00 PM or during a weekend or holiday, the money will be put into the mail-slot safe and the PO will be notified as soon as possible.

12. Any excluded items (i.e.: firearms, narcotics, or hazardous materials) shall be turned over to the venue agency for booking into their property room. This process will be coordinated with the Venue Agency's Dispatch Center.

    a. If the BO encounters any difficulties, he/she should contact their supervisor for assistance.

    b. Although the item(s) will not be physically booked into the Bureau PO, it will be listed as part of the case property record in Revolution.

B. Property Officer's Responsibility

1. Verify the Property Record to ensure it has been properly completed.

2. Verify the packaging and documentation of all money as listed on the corresponding Property Record(s).

    a. Under no circumstances shall property room personnel break the evidence seal during the verification process.

    b. At any time up to this point, the PO may refuse acceptance of evidence/property due to erroneous or incomplete information.

3. A Notice of Correction will be initiated by PR personnel whenever the Property Record or items are not in compliance with General Orders and/or Departmental Special Orders.

    a. The employee who booked the property shall be responsible for correcting the errors.

    b. Personnel are to respond to the Notice of Correction within three (3) working days or as soon as possible after receipt of the notice.

4. Finalize the Property Record indicating acceptance of property/evidence into the property room.

    a. If a Notice of Correction has been sent to the BO, the Property Record <u>will not</u> be finalized until after the necessary correction(s) have been made.

5. Assign the property/evidence a suitable storage location, in the PR, so as to maintain evidentiary value, as well as protect Bureau personnel from potential injury.

V. INTERDEPARTMENTAL HANDLING OF BOOKED PROPERTY

A. Responsibility for Disposition of Booked Property

1. The IO shall provide disposition instructions on property booked, except for found property, which will be handled by the PR personnel, unless advised otherwise by the BO.

    a. An Evidence Disposition Request will be initiated by PR personnel and routed to the proper person.

b. Upon receipt of the Evidence Disposition Request, the investigator will process the request as soon as practical.

c. Prior to giving disposition instructions, the investigator will be responsible for researching the case to determine the following:

1. Has the statute of limitations expired?

2. Was the property taken pursuant to a Search Warrant?

3. Whether an appeal is on file with the courts.

4. If the suspect(s)/defendant(s) have any active warrants on file.

5. If granted probation, are there any stipulations to the order, i.e., possession of firearms prohibited?

6. Has any firearm/ballistic evidence been reviewed and released by IBIS Personnel.

a. If adjudication is complete, and the investigator has given authorization to dispose of ballistic evidence, the Venue Agency shall be notified of the disposition/ destruction.

7. Is there an active Federal prosecution?

a. Frequently, property/evidence may be retained in cases with <u>multiple</u> defendants. Care must be taken in reviewing case reports to ensure the property proposed for release or disposal is no longer needed for <u>additional</u> suspects' trials.

d. If evidence is to be released prior to charges being filed the IO will obtain approval from their Lieutenant.

e. The IO shall obtain authority from the District Attorney's Office prior to the release of evidence if the case has not been adjudicated.

B. IO's Responsibility When Taking Property from the PR

1. Any investigator taking property items from the PR shall present their Bar Code Identification Label to PR personnel.

    a. After scanning the requesting person's Bar Code, PR personnel will scan the appropriate activity type, i.e., checked out for court, out to ID, etc.

    b. All dates, times, items, and the disposition of the item(s) are recorded by the Revolution Bar Code System.

2. When returning the item(s) to the PR, PR personnel shall scan the items, and place them in a suitable storage location.

    a. If an item was checked out for court, but not returned, PR personnel shall complete a To/From letter and send it to the IO's Lieutenant within twenty-four (24) hours.

3. When an IO checks an item out of the PR and turns the item(s) over to a second party, it will be the responsibility of the investigator signing out the property to ensure the Secondary Property Release (SPR) is completed and turned into the PR. PR personnel will record the SPR information in Revolution and then scan a copy of the SPR form into Revolution.

    a. The only exception to the use of the SPR will be any item(s) left at the State of California Department of Justice Laboratories.

    b. It will be the responsibility of the IO turning over the item(s) to another party to ensure the SPR is submitted to the PR personnel within twenty-four (24) hours.

    c. The person receiving the item(s) must sign and print their name on the SPR.

        1. **Under no circumstances will investigators sign for another person.**

4. When returning evidence to the PR it is the returning person's responsibility to assure the following:

    a. The package is sealed or resealed with evidence tape, and that the tape is initialed, including badge number, and dated.

b. The appropriate Bar Code is on the package.

5. The IO is responsible for making sure the evidence is returned to the PR.

VI. GENERAL PROPERTY DISPOSITION AND RETENTION

A. Found Property

1. The responsibility for the handling and disposition of all property classified as found property rests with the PR personnel.

2. Found property shall be retained for a minimum of ninety (90) days prior to being disposed of (Section 2080.2 California Civil Code).

   a. Items of no monetary value and no known owner may be disposed of immediately in accordance with Section VII. B., 3. a through c.

3. Where owners are identified, notification will be sent by mail to the owner instructing them to contact the IO so arrangements can be made to release the property.

   a. The notice is generated and recorded by the Revolution System.

   b. If the notice is returned due to an incorrect address, a reasonable effort will be made to determine the correct address, and re-mail the notification.

      1. If the correct address cannot be determined, the notice will be maintained in the PR for a period of two (2) years before being disposed.

4. The owner will be given ninety (90) days to prove ownership and claim the property.

   a. If the property is not claimed, it will be offered to the finder (unless the finder is a San Joaquin County employee).

      1. After notification is made:

         a. The finder will be given fifteen (15) working days to claim the property.

b. If the found property is valued at less than $250.00, it may be released to the finder.

c. If the found property is valued at $250.00 or more, it will be advertised as found in the newspaper for seven (7) days.

d. If the property is not claimed, the finder is legally entitled to the property after paying the advertising costs.

e. Exception: Found firearms will be destroyed.

5. Unclaimed property will be auctioned, disposed of, or acquired for departmental use.

B. Property Held for Safekeeping

1. Any time property is held, a Property Receipt must be given to the person from whom the property was taken, and a report written documenting the circumstances surrounding the taking of the property.

a. The IO will inform the citizen of the procedures for the return of held property.

b. Personnel shall note in the narrative of their report whenever a receipt is issued.

2. Property that is being held for safekeeping will be released to the owner by PR personnel with the exception of weapons.

a. For property where ownership is questionable, the lead investigator will be responsible for releasing it to the owner.

b. Property shall be returned as soon as possible to the rightful owner upon request or by legal mandate.

c. Property (excluding firearms) not claimed within sixty (60) days shall be considered intentionally abandoned by the owner and disposed of per Section 2080.10 of the California Civil Code.

d. Penal Code Section 12021(g) prohibits any person subject to a restraining order issued pursuant to Sections 545, 545.5, or 546 of the Code of Civil Procedure from purchasing or otherwise obtaining a firearm knowing that he or she is subject to a restraining order.

3. In order to show compliance with Penal Code 12021(g), the Unit having the investigative responsibility shall determine whether the rightful owner has a Domestic Violence Restraining Order on file prior to the release of the fireman.

   a. In those cases wherein the rightful owner is subject to a Domestic Violence Restraining Order , PR personnel shall advise the Sheriff's Office to retain the firearm until such time as the restraining order expires, or upon receipt of a court order, after which the firearm may be released to the rightful owner.

4. Firearms held for safekeeping which are involved in Domestic Violence incidents and which have not been claimed by the rightful owner, and the owner is not subject to a Domestic Violence Restraining Order, shall be retained for a period of twelve (12) months, after which they may be sold or destroyed (Section 12028.5 PC).

   a. The BO shall indicate on the Property Record whether the circumstances surrounding the taking into custody of the firearm involved a Domestic Violence incident by checking the Domestic Violence box.

5. Firearms held for safekeeping which are not involved in Domestic Violence incidents, and which have not been claimed by the rightful owner, shall be retained for a period of six (6) months, after which they shall be sold or destroyed. (Section 12032 PC).

C. Recovered Property

1. Property may be released by the Unit having investigative responsibility to the rightful owner prior to the conclusion of a trial under authority of a court order, or upon written authorization of the representing District Attorney.

   a. Exception: Items held for investigation of a capital offense shall not be photo released (i.e. 187 PC, 207 PC, etc.).

Items held in crimes with a statute of limitations in excess of six (6) years shall not be released.

1. Prior to release, a photograph will be taken of the property and owner together.

2. The owner must agree to reasonably make the property available until the conclusion of legal proceedings.

3. The person from whom the property was taken will be given notification of their right to claim the property.

D. Evidence

1. Normally, prior to disposal, evidence will be retained for a minimum of four (4) months after the case has been adjudicated.

2. All cases wherein the defendant has been sentenced to serve time in state prison will be checked by the IO responsible to assure no appeal has been filed.

   a. The period for filing an appeal is sixty (60) days after conviction for a felony, and thirty (30) days after conviction for a misdemeanor.

3. All evidence in homicide cases, wherein the defendant is given the death penalty, shall be retained until the death sentence has been carried out (Section 1418 PC).

4. Unless disposal is authorized earlier by the investigator, property booked into the PR as evidence with no arrests, or no known suspect(s), shall be disposed of in accordance with established "POST Purge Guidelines".

VII. PROPERTY DISPOSAL

A. General Guidelines

1. Whenever booked property is identified by this Bureau as being eligible for disposal, one of the following methods will be utilized. Regardless of the method chosen, thorough documentation on all internal paperwork is required.

a. Return to owner or finder

b. Auction

c. Destruction

d. Conversion to County use

e. Cash monies released to Auditor for general fund

1. As soon as possible, the fiscal unit will be contacted for a trust account number and all necessary paperwork needed by the Treasurer's office, in order for them to deposit the money.

2. The BO and at least one other person will transport the money and paperwork to the Treasurer's Office to make the deposit. If the BO is an investigative assistant, an investigator (armed) will accompany them.

3. The BO will obtain a receipt for the deposit from the Treasurer's Office and return it to the Property Room.

2. Documentation of disposal transactions will be made on the original Property Record.

a. Documentation shall include the date of transaction, item(s) disposed of, method of disposal, signature of person receiving or disposing of the property, and where necessary, signature of the verifying employee.

3. Property held by this Bureau shall be disposed of in a manner authorized by statute.

a. When there are two (2) or more defendants involved in a criminal case, property will not be disposed of until all defendants' trials have been concluded.

b. Property shall not be disposed of until the period for appeals has closed and all appeals have been concluded.

c. The PO shall not dispose of property until the end of the time period established by Bureau policy for holding the

item; e.g., found property, property held for safekeeping, etc.

d. If the person from whom custody of the property was taken is a secondhand dealer or licensed pawnbroker, and if the owner of the property cannot be located at the end of the criminal proceeding, the property shall be returned to the secondhand dealer or pawnbroker.

e. In all cases where property is destroyed, PR personnel shall be sure the information is documented in the appropriate Department of Justice computer file concerning each item or serialized property that is authorized for disposal.

f. No property will be disposed of unless the PO receives a property evidence disposition form, a court order, or written instructions from the District Attorney's Office (P.O.S.T. Purge Guidelines).

1. EXCEPTION: The responsibility for disposition of all items classified as found property or safekeeping rests with the PR personnel, with the exception of weapons.

g. Any property item in which the manufacturer's serial number has been removed shall have an identification mark embedded or engraved in, or permanently affixed to it prior to being disposed (California Penal Code Section 537(e).

1. PR personnel shall engrave the property record number on all property as described in Penal Code Section 537(e).

2. Documentation of all items given an identification number shall be maintained by PR personnel.

3. Cases where more than one item on the same property record requires an identification number, distinction shall be made by placing a letter after the Property Record number.

Example:	B12345	- First item
	B12345(a)	- Second item
	B12345(b)	- Third item

a. **EXCEPTIONS:** If the method of disposal is destruction, the above does not apply.

b. **ANY FIREARM WITH THE SERIAL NUMBER REMOVED SHALL BE DESTROYED.**

B. Disposal Procedure

1. Return to Owner or Finder

a. Citizens receiving property shall provide the PO with proper personal identification, and when possible, satisfactory proof of ownership.

b. Citizens receiving property for another person or company will be required to submit a letter authorizing the release of items to them.

c. Upon request, and with the approval of the PR Supervisor, or his/her designee, items may be mailed to the owner.

(1) If items are mailed it will be documented in the Property Record.

d. When releasing property, the PO shall document the transaction by noting the date, time and items released on the original Property Record.

1. The person receiving property shall sign the Property Record, indicating they are the lawful owners and have taken possession of those items signed for.

2. The PO shall countersign, verifying the release.

3. EXCEPTION: Whenever property is turned over to the lawful owner by an IO, it will be the responsibility of the IO to document the release by noting the date and time the items were released, in addition to countersigning the Property Record authorizing the release.

e. No property item shall be released without the signature of the person receiving the property.

f. When releasing firearms to the owner, the following shall apply:

1. No firearm(s) shall be released without the owner first completing a DOJ Law Enforcement Gun Release Application.

a. If the eligibility check is approved, the owner must provide a copy of the DOJ Determination Notice to the IO within thirty (30) days PRIOR TO THE RELEASE OF THE FIREARM(S).

2. For the safety of Bureau personnel, an IO will, upon releasing a firearm(s), escort the person taking possession out of the building.

a. Generally, guns and ammunition returned to the owner will not be released at the same time. In the event this type of release becomes necessary, it will not be released without a Lt.'s approval.

b. Guns must be released with flex ties rendering the weapon safe. The owner of the gun will be instructed to leave the flex ties in place until they arrive home.

2. Auction

a. All items suitable for auction shall be released to Roger & Ernst Associates.

b. Each original property record shall be signed off, dated and itemized by an authorized representative of Roger & Ernst Associates.

1. The PO shall verify the release by countersigning the property record.

c. A report indicating all items released will be given to Roger & Ernst Associates for their records.

d. After releasing the property items to Roger & Ernst Associates, a receipt for the items will be given to the PO.

e. Upon conclusion of an auction, a consignment check and consignment list for all items sold will be mailed to the San Joaquin County Purchasing Department.

1. Purchasing will send the PR Supervisor a copy of the consignment list.

f. Records of all items released for auction will be maintained by the PR Supervisor.

g. Pursuant to Government Code Section 1090, to avoid conflict of interest, or the appearance of conflict of interest, no employee of this Bureau shall purchase any item at an auction, either personally or through third parties, if such employee, by position or assignment, has any degree of supervision, control, administrative responsibility or any other official role conducting an auction for this Bureau.

3. Destruction

a. Items of no monetary value shall be placed in the receptacle provided. The disposition will be recorded in Revolution.

b. For items of possible value, or if there is some question as to whether the item should be sold at auction, the PR Supervisor shall authorize the destruction.

c. All items placed in the receptacle shall be rendered unserviceable to the greatest extent possible.

d. When the receptacle is full, the PO will make arrangements for the bin to be transported to a dumpsite.

1. The PO shall accompany the bin to the site and witness the disposal.

e. When firearms are eligible for destruction, all pertinent provisions of law shall be followed. (Sections 12028, 12029, 12030, and 12032 of the California Penal Code).

1. PR personnel will prepare a gun log documenting those firearms intended for destruction.

2. Prior to the actual destruction, the gun log will be routed to the Firearms Coordinator for review.

    a. If a firearm on the log needs to be retained, an Evidence Disposition Request with retention instructions must be generated by the Firearms Coordinator and forwarded to the PR.

3. Destruction of firearms shall be accomplished by incineration at a disposal site authorized by the State.

4. The PR Supervisor will complete all necessary paperwork to accompany the firearms to the disposal site.

5. PR personnel will scan the bar code label for each firearm transported, and upload the data into Revolution.

f. PR personnel shall cancel information regarding all serialized property destroyed from the appropriate State database.

    1. If the property destroyed is a firearm, then PR personnel shall re-enter the firearm as "Destroyed" in the Automated Firearms System (AFS).

4. Conversion to County Use

    a. Requests for acquisition for the Bureau or other County use of unclaimed property held by this Bureau shall be made in writing and forwarded to the Chief Investigator for approval.

    b. Once approval is given, the PO shall have the Property Record signed by the Section, Division, or Department taking possession of the item(s).

        1. A Notation shall be made on the Property Record documenting the conversion to "County Use".

c. No property so acquired shall be used for personal or non-governmental purposes.

d. Records of all property items converted to County use shall be maintained by the PR Supervisor.

5. Transfer of Money to the County Treasury.

ANNEX A
PREPARATION INSTRUCTIONS
SECONDARY PROPERTY RELEASE (SPR)

In order to standardize the preparation of the SPR, the following instructions are to be followed.

A. When evidence is being released to a second party (i.e. the court, lab, etc.) the releasing investigator will print out a property tag and have the person taking control of the item(s) sign next to the item they are accepting. This signed property tag will be returned to the Property Officer.

(Adopted 07/11)

MONTHLY BRIEFINGS

I. POLICY

Briefings shall be held monthly by Bureau Lieutenants as a means of keeping subordinates informed. The briefings will normally be concluded within thirty minutes, and the subjects will be work-related.

II. PROCEDURE

A. Bureau Lieutenants will hold monthly briefings personally, or will designate a subordinate in his/her absence.

1. All Bureau of Investigations personnel designated by the Chief Investigator shall attend.

B. The following items shall be covered in monthly briefing sessions:

1. Special and Protocol assignments

2. Special, Informational, or General Orders as necessary

3. Relevant announcements and memorandums

4. Special wants and/or Bulletin information

5. Officer Safety information

6. Any information valuable to the Bureau

7. Any necessary training of a brief nature

8. Building security information

C. If it is an assigned work day and an investigator is unable to attend briefing, the Bureau Lieutenant will be notified of the reason prior to the briefing.

It will be the responsibility of each investigator to check with his/her Bureau Lieutenant and obtain information provided at the briefing.

(Adopted 07/11)

OFFICE SECURITY

I. POLICY

A. Special security procedures may be initiated in any Bureau office or facility according to the special needs and concerns of that facility. All Bureau employees working in those facilities shall make themselves familiar with such procedures and fully comply with them.

B. All District Attorney personnel are required to cooperate with the Bureau of Investigations and the front desk receptionist in all matters involving security procedures and emergency operations, such as fire alarms, bomb threats, breaches of security and criminal investigations.

II. PROCEDURE

This procedure should be adhered to when practical. Discretion is to be used.

A. Security of Access Doors

1. Bureau personnel shall not disclose the door lock combinations or give any person their key to any Bureau office or facility for any reason. These items are restricted to Bureau personnel only. Exception: Other law enforcement agencies as approved by a supervisor.

2. All Bureau personnel shall be careful to see that doors properly lock when traveling into or out of all Bureau offices and facilities where security keypads, locks, and combinations have been installed.

3. All Bureau personnel are 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.

B. Visitor Procedures

1. No personnel or individuals other than District Attorney employees, Bureau personnel, law enforcement personnel, or those personnel conducting official business shall be permitted in any Bureau facility or office without authorization.

2. Visitors not conducting official business are not permitted in secure areas of Bureau facilities unless accompanied by a Bureau member. Visitors shall not be left unattended in any portion of a secure area at any time.

C. Handling Prisoners/Suspects

1. Prisoners/suspects brought to Bureau offices or facilities shall be announced in advance to the investigator's supervisor or on-scene supervisor.

2. Prisoners/suspects will only be interviewed while they are properly secured and shall be secured at all times using proper restraints.

3. Prisoners/suspects shall not be left unattended at any time in a Bureau office or facility.

4. Additional prisoner/suspect handling procedures shall be followed as described in "Arrest and Prisoner Procedures."

D. Suspicious Circumstances or Unidentified Persons

Any investigator who notices suspicious circumstance(s) or unidentified or unauthorized person(s) within a secure area shall take action immediately to identify and correct the occurrence; then report the incident to a supervisor without delay.

(Adopted 07/11)

BOMB THREATS

I. POLICY

The Bureau of Investigations is tasked with ensuring the physical security of the District Attorney's Office's employees, facilities, and office sites. In that role, the Bureau will respond to the report of a bomb threat at any one of its facilities, obtain and evaluate the information provided by the person receiving the call, assist any law enforcement response, and assist an evacuation if necessary.

II. PROCEDURE

A. Telephone Threats

1. Consider all threats as real until determined otherwise.

2. Remain calm and keep the caller on the line as long as possible. Ask to have the message repeated. If possible, record every word spoken by the person making the call and record the information on the bomb threat checklist.

3. If the caller does not indicate the location of the bomb or the time of possible detonation, ask the caller for this information.

4. Inform the caller that the building is occupied and the detonation of a bomb could result in death or serious injury to many innocent people.

5. Pay particular attention to peculiar background noises such as motors running, background music, and any other noises which may give a clue as to the location of the caller.

6. Listen closely to the voice (male, female, adult, child), voice quality (calm, excited), accents and speech impediments.

7. Immediately after the caller hangs up, report the threat to your immediate supervisor. The supervisor or a senior ranking investigator will determine the appropriate course of action such as making a security report, contacting the responsible local law enforcement agency and/or causing a search to be made of the building.

B. Building Evacuation

1. The Bureau of Investigations is responsible for the safe and expedient evacuation of District Attorney personnel. The evacuation order shall be made after an informed assessment of the situation and consultation with the ranking investigator.

2. The order to evacuate must come from the highest-ranking Bureau supervisor present in the building.

3. Conduct a quick visual check for any suspicious objects or anything out of the ordinary as you exit and report it to your immediate supervisor once outside.

C. Building Search

1. After an informed assessment of the situation, a supervisor or senior ranking investigator may cause a search to be made of the building and/or coordinate a search with the responsible local law enforcement agency.

2. Report any suspicious objects to a supervisor. Do not use radios or cellular phones.

(Adopted 07/11)

MOBILE AND PORTABLE RADIO EQUIPMENT

I. POLICY

It is the policy of the Bureau of Investigations to operate mobile and/or portable radio equipment on frequencies licensed to allied law enforcement agencies under special circumstances.

The local agency communication centers recognize Bureau personnel coming up on their frequencies as "DA" or "DAI".

II. PROCEDURE

A. Under the following circumstances, Bureau personnel are authorized to operate mobile and/or portable radio equipment:

1. Investigator needs emergency assistance

2. Crimes in progress

3. During joint operations

4. Investigator safety concerns, when appropriate

B. The agreements to use local agencies' radio frequencies are with the following agencies:

1. San Joaquin County Sheriff

2. Lodi Police Department

3. Stockton Police Department

4. Manteca Police Department

5. Ripon Police Department

6. Tracy Police Department

C. In the event Bureau personnel need assistance from allied law enforcement, the radio call signs are assigned to allow the agency to appropriately evaluate the level of response required.

1. Criminal Investigators, Administrative Staff DA 1-25 (Armed)

2. Criminal Investigators DA 101-199 (Armed)

3. Public Assistance Fraud Investigators DA 201-225 (Unarmed)

4. Investigative Assistants DA 301-325 (Unarmed)

   a. When providing court security or on witness protection assignments, identify yourself as "DAI" and your last name when coming up on the San Joaquin Sheriff Court Services frequency.

(Adopted 07/11)

USE OF BUREAU VEHICLES

I. PURPOSE

In order to meet compliance requirements, document vehicle use, and reduce costs, the following procedures shall apply to the Bureau of Investigations.

II. PROCEDURE

A. Bureau vehicles will remain assigned to individual investigators assigned to Protocol rotation; however, changes in vehicle assignment shall be at the discretion of the Chief Investigator. Other Bureau staff will operate vehicles signed out of the investigative fleet pool.

B. Bureau vehicles are not to be driven after the consumption of alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively operate a motor vehicle, pursuant to the provisions of Vehicle Code § 23152, et al.

C. All personnel must comply with the provisions of the vehicle code and rules of the road, and drive with due regard and caution for the safety of all persons using the highway.

D. Bureau vehicles are not to be driven on days off, vacation days or holidays, etc., except when on official business and with approval of his/her supervisor. Short duration business trips are not an excuse for continued use of a Bureau vehicle during a normal day off or after hours on normal workdays.

E. All personnel shall wear seat belts at all times when riding in or driving a Bureau vehicle, and obey all other rules of the road.

F. Passengers in Bureau vehicles are restricted to those persons in need of transportation directly related to Bureau business. Exceptions shall be made with a supervisor's approval.

G. All Bureau vehicles shall be parked in their assigned garage at the end of the employee's tour of duty except when on authorized assignment.

H. All take-home Bureau vehicles are to be parked in the driveway or garage. No Bureau-issued safety equipment or equipment of significant value is to be left in the vehicle, including the trunk.

I. Employees on extended vacation or leave shall make their vehicles available. Employees are responsible for the removal of any weapons and personal property from the vehicle during this time period.

J. Employees are responsible to ensure that scheduled maintenance is performed on their assigned vehicles and that their vehicles are kept in a clean and serviceable condition.

K. Employees shall operate Bureau vehicles or vehicles rented while conducting Bureau business in compliance with all existing Bureau, local, county, and state vehicle and parking restrictions and regulations.

L. Employees shall conform to the policy and procedures in the "Vehicle Pursuit Policy".

M. Damage to Bureau vehicles shall be reported as soon as possible to the employee's supervisor. A memorandum detailing the damage and the cause of damage shall be submitted to the employee's supervisor as soon as practical.

N. Nothing in this policy and procedure is designed to prevent Bureau employees from exercising their best judgment in using a Bureau vehicle in the event of emergency or extenuating circumstances. When this occurs; however, Bureau supervision shall be notified as soon as reasonably possible.

(Adopted 07/11)

VEHICLE MAINTENANCE, REPAIRS, AND HANDLING OF ACCIDENTS

I. POLICY

All Bureau of Investigations personnel using County vehicles shall drive in a proper manner and follow the procedures set forth below in the maintenance, obtainment of repairs, and the handling of accidents involving their assigned vehicles.

II. VEHICLE MAINTENANCE

A. Employees are responsible to ensure that scheduled maintenance is performed on their assigned vehicles and that their vehicles are kept in a clean and serviceable condition.

1. Employees will keep the Lieutenant responsible for the Vehicle Program apprised of any problems or issues regarding their assigned vehicle.

B. Employees will fuel their vehicles using County designated pumping locations or by utilizing a Voyager Card as authorized by the Chief Investigator.

III. REPAIRS

A. Routine Repairs and Service

1. Routine repairs and service shall be performed at the County Motor Vehicles – Fleet Services Repair Shop.

2. Minor repairs and washing may be performed at the County Garage, Fleet Service Site, at San Joaquin and Market Streets.

B. Repairs Requiring Towing During Working Hours (8:00 AM to 5:00 PM, Monday through Friday)

1. Notify a supervisor of the circumstances.

2. Contact County Motor Pool and obtain authorization.

3. Contact Pacific Towing and have the vehicle transported to the County Motor Pool Garage.

C. Repairs Requiring Towing After Business Hours and Weekends

1. Notify a supervisor of the circumstances.

2. The supervisor will authorize the towing of the vehicle.

3. Contact Pacific Towing and have the vehicle transported to the County Motor Pool Garage.
Pacific Towing has after-hours access to this location

CI. Repairs Requiring Towing From Long Distances During Business Hours

1. Notify a supervisor of the circumstances.

2. Contact County Motor Pool to obtain authorization.

3. After evaluating the circumstances, a determination of using Pacific Towing or a local provider will be made. If a local provider is used, County Motor Pool will provide billing information.

CII. Repairs Requiring Towing From Long Distances After Hours and on Weekends

1. Notify a supervisor of the circumstances.

2. The supervisor will authorize the towing of the vehicle.

3. After evaluating the circumstances, a determination of using Pacific Towing or a local provider will be made. If a local provider is used, the supervisor will provide CalCard information for billing.

IV. ACCIDENTS

A. An employee involved in a traffic collision shall report the circumstances to the appropriate law enforcement agency having jurisdiction as soon as possible, and request a report be made.

B. The employee will notify his/her supervisor as soon as possible of the circumstances of the accident, the employee's condition, the other involved party's condition, and the condition of the employee's vehicle.

1. It shall be at the supervisor's discretion to respond to the scene for observation and assistance depending on the circumstances.

    a. If the law enforcement agency is unable to respond and take a report, and the collision occurred within San Joaquin County, the supervisor shall respond for documentation and photographs.

    b. If the collision occurred outside of the County, the supervisor shall provide guidance and direction to the employee on how to proceed.

2. Additional Supervisor Responsibilities

    a. Notify the Chief Investigator as soon as practical regarding all collisions involving Bureau personnel or vehicles.

    b. If accident involves major vehicle damage or injuries, advise Risk Management as soon as practical.

    c. Have employee complete and return the San Joaquin County Automobile Accident Report.

    d. Advise the employee not to give statements to insurance claim representatives representing the other party(ies) involved; refer them to Risk Management.

    e. Obtain a copy of the jurisdictional agency accident report.

    f. Obtain photographs of any damage to the County vehicle.

    g. Forward all reports and photographs to Risk Management.

(Adopted 07/11)

SICK LEAVE, TIME OFF AND OVERTIME REQUESTS

I. POLICY

It is the policy of the Bureau of Investigations to allow employees time off whenever possible.

II. PROCEDURE

A. Use of Sick Leave

1. Purpose and Scope

a. Employees of the Bureau are provided with a sick leave benefit that gives them continued compensation during times of absence due to personal or family illness. Employees may also be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA).

2. Employee Responsibilities

a. Sick leave may be used for absences caused by illness, injury, temporary disability (including pregnancy/maternity), or for medical, dental or vision exams or medical treatment of the employee or the employee's immediate family when it is not possible to schedule such appointments during non-working hours.

b. Sick leave is not considered vacation, and abuse of sick leave may result in discipline and/or denial of sick leave benefits. Employees on sick leave shall not engage in other employment or self-employment, or participate in any sport, hobby, recreational or other activity which may impede recovery from the injury or illness.

c. Upon return to work, employees shall complete and submit an Overtime Earned/Time Off Request form describing the type of leave used and the specific amount of time taken.

3. Notification

a. When the necessity of leave is foreseeable, such as an expected birth or planned medical treatment, the employee

shall, whenever possible, provide the Bureau with no less than 30 days notice of the intent to take leave.

b. Employees are encouraged to notify a supervisor as soon as they are aware they will not be able to report to work. At a minimum, employees shall make such notification no less than one hour before the start of their scheduled shift. If an employee is unable to contact a supervisor, contact with the Bureau Secretary to forward the information is appropriate.

c. In the case of an emergency, if an employee is unable to personally make contact, every effort should be made to have a representative make contact on their behalf.

4. Extended Illnesses

a. Employees on extended absences shall, if possible, provide an update on their absence and expected date of return to work. Employees absent from duty due to personal illness in excess of three consecutive days may be required to furnish a statement from their health care provider supporting the use of sick leave and/or the ability to return to work.

b. Nothing in this section precludes the supervisor, with cause, from requiring a physician's statement if three or fewer sick days are taken.

c. The requirement, need, and form for such verification shall be made known to the employee in advance of any absence, but no later than the time the employee calls in sick.

B. An Overtime Earned/Time Off Request form must be turned in any time an employee is requesting time off.

1. Except for sick leave and emergencies, the request should be made in advance.

C. Requesting Time Off

1. Obtain supervisor's approval.

2. Complete Overtime Earned/Time Off Request as follows:

a. Enter name

b. Employee ID #/ Job Title

c. Department ID (DAI)

d. ñXò the Time Off Hours you want to use

e. List ñFromò and ñToò dates and total number of hours

f. Mark same on calendar portion of Request form

g. Enter reason for time off in Comments section (if applicable)

h. Sign and date

i. Submit form to supervisor for authorized signature

D. Alternate Work Schedule

1. Ten (10) ï hour work day

a. If a holiday falls on your scheduled ten (10) ï hour work day, Payroll will automatically deduct two hours of vacation leave time.

2. If you do not want to use vacation leave time, you must turn in an Overtime Earned/Time Off Request form for the leave time you want to use.

a. Any type of leave may be used except sick.

E. Banking Time

1. If you are on a regular eight (8) ï hour schedule, you will automatically earn the HOLIDAY FLOATER if you work that day.

2. Birthday Floaters

a. No Request form is needed as Payroll will automatically bank this time, whether it falls on a regularly scheduled work day, flex day, regular holiday or weekend.

3. Earning Overtime

a. Receive supervisorôs approval prior to working overtime.

b. Complete the ñTime Earned Hoursò section of the Overtime Earned/Time Off Request form.

1. If you want to be paid cash for the overtime, complete the ñCash Paymentò section.

    a. Check the ñOVERTIMEò box under the ñCash Paymentò section.

2. If you want to earn comp time for the overtime, complete the ñHours Paymentò section.

    a. Check the ñCOMP EARNEDò box under the ñHours Paymentò section.

3. Fill in the ñDate Workedò box and the ñHours Workedò box. You can enter multiple days on a single slip ï just list each day and the hours worked in the appropriate box. You may also use the calendar boxes to show the breakdown of hours, but it is not necessary.

4. Use the Comments section to list the reason for the overtime, case number, defendantûs name, etc.

5. Sign and date the slip, and forward it to your supervisor for authorized signature.

(Adopted 07/11)

EMPLOYEE PERFORMANCE EVALUATION PROCESS

I. PURPOSE

The Employee Performance Evaluation Process is an interactive process between the employee and his/her supervisor that focuses on job related standards and a review of the employee's work performance in defined work related categories.

A. The process is designed to:

1. Develop a cooperative approach to achieving and maintaining acceptable standards of job performance.

2. Provide clear guidelines for performance evaluation in defined rating categories.

3. Provide the employee with a clear understanding of professional and performance standards.

4. Encourage communication within our office.

5. Provide an environment for the employee and supervisor to have a candid discussion regarding the employee's performance and expectations of both parties.

6. Acknowledge and recognize good performance and special achievements.

7. Identify and address rating categories which require improvement or training.

8. Establish future employee goals and guidance for succession planning.

II. PERFORMANCE EVALUATIONS

A. Performance evaluations and reviews of employee's performance will be conducted by supervisors on the following schedule:

1. Non-probationary personnel - annually each January.

2. Probationary personnel - 4th, 7th and 11th month during the probationary period.

3. Employees on performance improvement plans - every three months.

B. Employees will be evaluated in 24 performance standard categories which are:

1. Professionalism
2. Dependability
3. Teamwork
4. Acceptance of Responsibilities
5. Organizational Skill
6. Initiative
7. Appropriateness of Appearance
8. Public/Interagency Interaction
9. Employee Relations
10. Supervisor Relations
11. Compliance with rules and regulations
12. Work quality
13. Productivity
14. Performance with minimum supervision
15. Performance under pressure
16. Performance in new situations
17. Quality of Judgment
18. Written Communication
19. Oral Communication

20. Equipment Operation - Office

21. Equipment Operation - Vehicle

22. Equipment Operation - Safety

23. Attendance

24. Punctuality

C. Supervisory personnel will be evaluated for ten additional performance standard categories which are:

1. Evaluation

2. Instruction

3. Organization

4. Direction

5. Delegation

6. Leadership & Motivation

7. Organizational Communication

8. Audit & Inspection

9. Staff Work

10. Decision Making

D. Each performance category will be rated either as:

1. Exceptional

2. Exceeds Standards

3. Meets Standards

4. Needs Improvement

5. Unacceptable

6. Does Not Apply

E. A rating of "Exceptional", "Exceeds Standards", "Needs Improvement", or "Unacceptable" must be supported in the narrative comment portion by the supervisor. Any ranking with "Needs Improvement" will include a written recommendation for improvement. A rating of "Unacceptable" in any category will include a formalized written Performance Improvement Plan with the evaluation.

The narrative/comments section of the evaluation form is intended to cover categories which require an explanation as well as other areas which deserve special recognition, such as extraordinary work on a case, or areas for improvement.

III. INPUT AND REVIEW

A. Performance evaluations will be based on collective input from Investigations Bureau management personnel and may include deputy district attorneys who worked directly with the employee during the evaluation period. The supervisor will review the evaluation with the employee. Employees are encouraged to provide input to their supervisors regarding their accomplishments and contributions before the evaluation process begins. Supervisors will submit completed performance evaluations to the Chief Investigator for review and approval.
The employee and supervisor shall participate in a professional performance review session as they objectively discuss performance standards, strengths, accomplishments, areas for improvement and topics such as training and future growth.

IV. PERFORMANCE IMPROVEMENT PLAN

If an employee receives an "Unacceptable" rating in any area, the supervisor must prepare a written Performance Improvement Plan. This plan will be discussed and developed with the employee and approved by the Assistant Chief Investigator. The Performance Improvement Plan will contain specific action items and target dates for completion. The employee will be evaluated at three (3) month intervals until the deficiency is resolved.

V. EMPLOYEE'S RESPONSE

The employee has the right to provide a written response to the evaluation which will be included as part of the evaluation. The written response must be submitted to their supervisor within thirty days of the performance review session.

VI. PROFESSIONALISM STANDARDS

The Professionalism Standards guidelines are provided to give each employee an overview of the behavioral and professionalism standards which their supervisors will consider during the evaluation process.

VII. ROUTING OF COMPLETED EVALUATION

A. Original to Human Resources

B. Copy to evaluating Lieutenant

C. Copy to employee

D. Copy to Bureau Personnel File

E. Copy to Main DA Personnel File

PROFESSIONALISM STANDARDS

"These standards for the Bureau of Investigations are intended as a guide toward achieving a level of excellence in Law Enforcement. Therefore, when members of the Bureau practice these standards in the daily course of their duties, he or she will know they have performed with integrity and professionalism."

A. Represent the Office of the District Attorney in a professional, ethical and positive manner.

B. Focus your time and energy on the productive work of the Office while on duty.

C. Be aware of and sensitive to the needs of the Office.

D. Consider potential consequences to this Office, outside agencies and other parties when making decisions.

E. Take responsibility for your own actions and decisions.

F. Present possible solutions when identifying and communicating areas for improvement (organizational, procedural, etc.).

G. Be flexible and adaptable.

H. Establish and maintain a professional working relationship with the DDAs handling the cases assigned to you.

I. Communicate with DDAs on a regular basis while they are in trial (several times a day) to determine and address investigative needs (pre-assigned/vertical prosecution cases).

J. Bring investigative concerns, questions, or issues to the attention of your investigative unit supervisor on a timely basis (i.e., unable to meet suspense dates, scheduling issues, workload demands, etc.).

K. Submit all written reports to your investigative unit supervisor.

L. Complete investigative requests/assignments in a timely manner (by the established suspense date - if a suspense date is not specified, then you should establish one with the requestor).

M. Review your pending cases and assignments with your supervisor before taking time off.

N. Work special assignments as requested by your supervisor.

O. Willingly accept assignments outside of your specific assignment if requested to do so by your supervisor.

P. Discuss your training needs with your supervisor.

Q. Get pre-approval from your supervisor before working overtime, taking time off or deviating from your normal work schedule.

R. Establish a professional working relationship with investigators from other agencies.

S. Establish a professional working relationship with support groups associated with your special assignment (i.e., Women's Center, Mary Graham Hall, etc.).

T. Know the laws related to your assignment - take the initiative to research and learn on your own.

U. Be familiar with grants and contracts related to your assignment (know the investigative commitments and responsibilities).

V. Be familiar and competent in the use of investigative resources - including databases and information sources

W. Share training, sources of information, resources, new information with co-workers.

X. Properly use, maintain, secure, and care for County equipment and property.

Y. Perform activities in a safe manner - officer and employee safety is of utmost importance.

Z. Follow good tactical procedures and challenge those who do not.

AA. Maintain a professional appearance and proper personal hygiene.

BB. Avoid rumor spreading.

CC. Avoid racial, sexual, religious, and ethnic slurs; address such behavior if you observe it.

DD. Treat co-workers with courtesy and consideration.

(Adopted 07/11)

ADMINISTRATIVE AND PERSONNEL RECORDS

I. PURPOSE

A. This policy is issued to protect the confidentiality of the Bureau and personal/personnel records of all employees of the Bureau from exposure of information to outside entities or persons not entitled to receive such information.

B. This policy is not intended to protect any member of the Bureau from discovery of misconduct or wrongdoing; however, it is intended to establish the proper procedure for reporting such concerns.

C. This policy does not prevent any employee from access to their personal/personnel files or records under the proper procedure.

II. POLICY

A. Records, files, documents, personnel and/or personal records of any employee, and statistical data kept by the Bureau for administrative purposes shall not be accessed, copied, or retained in any manner by any other employee for any reason without first having requested and received permission from his/her supervisor for authorized department business.

B. Records and data kept by the Bureau for administrative purposes are the property of the District Attorney's Office and are not to be reproduced or given to any other person, employee, agency, entity, or authority without notification and permission of the District Attorney or Chief Investigator via the chain of command.

C. No employee shall keep records or data concerning the activities of any other employee for any purpose without notifying their supervisor or being instructed to do so by a supervisor in proper discharge of their duties. This section does not apply to supervisors maintaining working evaluation and/or discipline files on their assigned employees.

III. PROCEDURE

A. Any employee requesting access to their own personal/personnel file or records, after notification to their supervisor, may be granted access as soon as is reasonably possible.

B. Any employee wishing to access administrative records for any purpose shall request permission from his/her supervisor.

C. Definitions

1. Bureau personnel file
That file which is maintained in the secure records storage room as a permanent record of the employee's employment with the San Joaquin County District Attorney's Office, Bureau of Investigations.

2. Red file
That file consisting of all investigative material compiled during the investigation of allegations of misconduct by a Bureau employee or other confidential investigation.

3. Personnel report
That report which reflects the final disposition of any personnel complaint or disciplinary action.

4. Confidentiality
Pursuant to Penal Code § 832.7, the Bureau Personnel File and all other investigator personnel records shall be deemed confidential and shall not be subject to disclosure other than to authorized personnel except pursuant to the discovery procedure set forth in California Evidence Code § 1040 and 1043, et seq.

(Adopted 07/11)

EMERGENCY RECORDS

A. The District Attorney's Office maintains a Confidential Emergency Data Form containing personal and emergency information for all Bureau employees. The information is available from the Bureau's Chief Investigator, Lieutenants or clerical supervisor.

B. Confidential Emergency Data Forms contain optional information; however, the following information is mandatory and shall be placed in the employee's personnel file:

1. Employee's address and home phone

2. Name of spouse or next-of-kin

3. Spouse's or next-of-kin's home address, home telephone number, business name, business address, and business telephone number

C. All employees shall file a new Confidential Emergency Data Form upon a change of the mandatory information. The clerical supervisor will forward a copy to District Attorney Administration. This form shall be completed upon the first work day following the change of information. All employees shall make certain all information is current and up-to-date, and will make changes as needed.

(Adopted 07/11)

COMPLAINTS BY THE PUBLIC

I. PURPOSE

A. The San Joaquin County District Attorney's Office, Bureau of Investigations, is open to review and strictly accountable for its conduct. All Bureau of Investigations employees are expected to conduct themselves in a manner consistent with the standard of professionalism necessary to insure the safety of the public and the community.

B. We expressly recognize the right for all persons, in good faith, to report a Bureau employee's misconduct. All persons filing a complaint against a Bureau employee shall be free from constraint, coercion, reprisal or discrimination. The most effective way to develop mutual respect, trust, and confidence needed between a community and its law enforcement agencies is to encourage communication and candor.

C. The personnel complaint procedure is initially an administrative remedy to provide a rapid resolution to disputes between the public and the Bureau of Investigations. Proper use of this procedure should allow for the identification or procedural clarification of issues, and identification of procedural deficiencies. The procedure must also safeguard the rights of the employee.

II. POLICY

Complaints by the public of employees, policies, procedures, or programs of this department shall be thoroughly and accurately investigated under the direction of the Chief Investigator.

Many complaints may be solved without a formal complaint. In those cases where the issues made against an investigator or non-sworn personnel can be resolved by the immediate supervisor, no written documentation is necessary.

In those instances where a formal complaint is requested, the following procedure will apply.

III. PROCEDURE

A. Personnel Complaints:

1. The purpose of this procedure is to:

a. Clear the innocent;

b. Establish guilt of wrong-doers;

c. Facilitate prompt and just disciplinary action;

d. Afford employees who are the subject of personnel complaints all rights and protections to which they are entitled.

B. Procedure

1. Any persons desiring to make a personnel complaint against civilian or non-sworn employees shall be advised that the complaint may be made to the employee's immediate supervisor, any person acting in the place of the immediate supervisor, or any investigator of supervisory rank.

2. Any person desiring to make a personnel complaint against a peace officer of this Bureau shall be advised that the complaint may be made to any officer of supervisory rank, or directly to the Chief Investigator.

3. In most cases, the Bureau's Citizen Complaint Procedure Form shall be filled out by the person making the complaint. The complainant shall make a written statement of the facts on the form provided. The complainant may submit a written statement if the statement contains the same details and information required on the Citizens' Complaint/Information Form.

4. The complainant will be provided with a copy of his/her own statement at the time the complaint is filed. If the complainant submits the personnel complaint through the mail, a copy of the complaint shall be mailed to the complainant at the address given on the form.

C. Routing of Complaint

1. The Citizens' Complaint/Information Form will be forwarded to the Chief Investigator for investigative assignment.

2. The complaint may be assigned for investigation by the Chief Investigator to the supervisor of the unit involved, to the employee's immediate supervisor or, in the event of a conflict, to any other supervisor. When possible, internal investigations shall be conducted by a person of higher rank.

3. The employee assigned to the investigation shall be responsible for a thorough and accurate investigation. Normal investigative and reporting procedures shall apply.

4. Emergency: 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 Lieutenant or other supervising investigator shall be responsible for initiating the investigation.

D. Method of Investigation

1. Upon receipt of the complaint, the supervising investigator or other assigned employee will notify the complainant and the employee in writing that the complaint has been received and is being officially investigated. If more than one month passes before completion of the investigation, the complainant will again be contacted by letter, with an explanation of the delay, and the estimated completion date. Any employee involved in the complaint will be extended the same courtesy. The employee will not be notified of such an investigation if such information might compromise the investigation.

2. Peace officers who are the subject of personnel investigations shall be afforded all rights and protections afforded by Government Code Section 3300 – 3311 et. seq. (Peace Officers Procedural Bill of Rights Act).

3. The completed investigation will then be reviewed by the Chief Investigator and/or District Attorney.

4. Upon the completion of the investigation, the complaint will be classified into one of six categories:

   a. Unfounded – The investigation conclusively proved that the act or acts complained of did not occur as described by the complainant, or that the employee named was not involved.

   b. Exonerated – The incident/allegation which provided the basis for the complaint or allegation occurred; however, the investigation revealed the action taken was justified, lawful, and proper.

c. Not Sustained – The investigation failed to reveal enough evidence to prove or disapprove the allegation.

d. Sustained – The investigation disclosed sufficient evidence to prove the allegation made in the complaint.

e. No Finding – The complainant failed to disclose promised information to further the investigation. The complainant is no longer available for clarification.

f. Procedure – District Attorney's investigative personnel were not involved and the complaint was referred to another agency. The complainant was advised of applicable law or policy and that proper procedures were followed.

5. Should the investigation reveal improper conduct by a member of the Bureau, then corrective action will be initiated in accordance with policy and procedures established by the District Attorney. The Chief Investigator and/or District Attorney will recommend disciplinary action, which may be any one of the following, singly, or in concert with another:

a. Counseling

b. Retraining

c. Discipline

d. Dismissal

E. Dispositions

1. The employee will be informed in writing by the District Attorney or Chief Investigator of the final disposition. Sustained complaints will become a part of the employee's personnel record.

2. Complaints by members of the public that are determined to be frivolous shall not be maintained in the employee's personnel file. These complaints; however, shall be retained in other files that shall be deemed personnel records for purposes of the California Public Records Act.

3. The complainant will be notified, either by telephone or mail, of the final classification of the complaint by the Chief Investigator within

30 days of the disposition of the complaint. "Disposition" is limited to a finding of unfounded, exonerated, not sustained, sustained, no finding, and procedure.

4. An employee wishing to appeal the final disposition of the complaint/investigation should refer to their current Memorandum of Understanding (MOU) for appeal rights and procedures.

5. All investigations and reports shall be deemed confidential.

F. Records

1. Citizen and personnel complaints and any reports or findings relating thereto shall be retained for at least five years.

2. Copies of sustained complaints and dispositions will be placed in the employee's personnel file and shall be retained.

3. Employees shall be permitted to review their personnel file at any time by contacting their immediate supervisor.

G. Written Procedure

The Bureau shall have available a written summary of the complaint procedure in the Mainline reception area.

(Adopted 07/11)

CONFIDENTIALITY OF INFORMATION

I. POLICY

A. Employees shall not divulge departmental information, informant identity, reports, photographs, or other confidential or sensitive information, both on-duty and off-duty, except as required in the performance of their official duties.

B. Employees shall not knowingly permit the misuse of any criminal justice or law enforcement information for their own interest or that of another.

C. Employees may provide the information, reports, and photographs prescribed by law and Bureau policy to bona fide regularly employed peace officers or investigators of the United States government, government officers from any state, the State of California, local police, or sheriffs for inspection in the course of their investigations.

DISPOSAL OF MEDIA POLICY

I. PURPOSE

The purpose of this policy is to outline the proper disposal of media (physical or electronic) at the San Joaquin County District Attorney's office. These rules are in place to protect sensitive and classified information, employees and the San Joaquin County District Attorney's office. Inappropriate disposal of the San Joaquin County District Attorney's office and Criminal Justice Information (CJI) and media may put employees, of the San Joaquin County District Attorney's office at risk.

II. SCOPE

This policy applies to all San Joaquin County District Attorney's office employees, contractors, temporary staff, and other workers at the San Joaquin County District Attorney's office, with access to CJIS systems and/or data, sensitive and classified data, and media. This policy applies to all equipment that processes, stores, and/or transmits CJI and classified sensitive data that is owned or leased by the San Joaquin County District Attorney's office.

III. POLICY

A. When no longer usable, hard drives, diskettes, tape cartridges, CD's, ribbons, hard copies, print-outs, and other similar items used to process, store and/or transmit CJI and classified sensitive data shall be properly disposed of in accordance with measures established by the San Joaquin County District Attorney's office.

   Physical media (print-outs and other physical media) shall be disposed of by one of the following methods:

   1. Shredding using San Joaquin County District Attorney's office issued shredders.
   2. Placed in locked shredding containers for the San Joaquin County Records Center employees, who have completed security awareness training required during the two day new employee orientation and then annually thereafter. The containers will be taken off-site by San Joaquin County Record Center authorized personnel who will ensure the documents are destroyed throughout the entire shredding process.

B. Electronic media (hard-drives, tape cartridge, CD's, printer ribbons, flash drives, printer and copier Hard-drives, etc.) shall be disposed of by one of the San Joaquin County District Attorney's office methods:

   1. Overwriting (at least 3 times) – an effective method of clearing data from magnetic media. As the name implies, overwriting uses a program to write (1s, 0s, or a combination of both) onto the location of the media where the file to be sanitized is located.
   2. Degaussing – a method to magnetically erase data from magnetic media. Two types of degaussing exist: strong magnets and electric degausses. Note that common magnets are fairly weak and cannot effectively degauss magnetic media.
   3. Destruction – a method of destroying magnetic media. As the name implies, destruction of magnetic media is to physically dismantle by methods of crushing, disassembling, etc., ensuring that the platters have been physically destroyed so that no data can be pulled.

C. IT systems that have been used to process, store or transmit CJI and/or sensitive classified information shall not be released from The San Joaquin County District Attorney's office control until the equipment has been sanitized and all stored information has been cleared using one of the above methods.

IV. ENFORCEMENT

Any employee found to have violated this policy may be subject to disciplinary action, up to and including termination.

(Adopted 07/11)

POST TRAUMA INCIDENTS

I. PURPOSE

Recognizing that Bureau employees may become involved in incidents which are unique, emotionally traumatic, and stressful, the following procedure shall apply.

II. PROCEDURE

A. Psychological services and/or the Bureau Peer Support Program are available to those employees who, as a result of the performance of their duties, are subjected to any of the following:

1. Serious injury, death, or suicide of Bureau personnel.

2. Officer-involved shooting incidents, which result in the wounding or death of another person.

3. Any officer-involved shooting incident or assault where the investigator may feel anxiety about returning to duty, whether or not an injury was suffered.

4. Any incident involving serious injury or death of a child.

5. Any incident involving exposure to AIDS, or the possibility of contracting hepatitis or other infectious diseases.

6. Major traffic collisions or any other incidents in which the employee was directly or indirectly involved which results in multiple injuries or fatalities.

7. Any incident where the employee knows the victim(s) of serious injury or death.

8. Any critical incident with circumstances or working conditions likely to produce high levels of immediate or delayed emotional reactions (i.e. catastrophic earthquake, airline crash, etc.).

9. Any other situation considered by the Chief Investigator to be traumatic in nature.

B. Application of policy and procedure

This policy and procedure shall also apply to those employees indirectly involved such as partners of involved employees, other employees at the scene, etc., when the need for counseling or psychological evaluation is identified. In addition to the partner and other employees, joint sessions with spouses or other family members may be authorized at the discretion of the Chief Investigator.

C. Situations considered by the Chief Investigator to be traumatic to the Bureau employee involved will result in a referral to Peer Counseling.

D. Any Bureau employee involved in a traumatic incident may be reassigned to "light duty" or receive a paid leave of absence.

E. Psychological consultations and evaluations authorized in this procedure will be at the County's expense. Records of consultations and evaluations will be kept in strict confidence, in line with existing legal privileges.

F. Follow up sessions can be directly arranged by the employee with the psychologist/psychiatrist and need not be requested by administrative or supervisory personnel. These contacts are confidential and no reports are forwarded to the Bureau. Exceptions to this would be fitness for duty evaluations and mandatory reporting exceptions to the confidentiality rule such as homicidal tendencies, suicidal tendencies, child abuse, and elder or dependent adult abuse.

(Adopted 07/11)

PEER SUPPORT PROGRAM

I. POLICY

The Bureau of Investigations shall offer the Peer Support Program to employees upon their request.

II. PURPOSE

Help Bureau employees, sworn and non-sworn, through a critical incident, to reduce the likelihood or effects of post-trauma stress reactions, and to provide support and assistance to employees and their families in handling personal problems.

III. DEFINITIONS

A. TRAUMATIC INCIDENT: Any situation that is likely to be emotionally overwhelming to an employee.

B. CRITICAL INCIDENT: A traumatic incident that is work-related.

C. PEER SUPPORT: A process whereby a person discusses a personal issue with a nonprofessional; usually a friend or co-worker. The person defines the problem and decides upon a solution himself/herself. The peer support member utilizes good active listening skills, helps clarify issues, and supports the person through the problem-solving process. When problems are acute or appear to require specialized assistance, information on referral resources will be made available to employees or their families.

IV. PROCEDURE

A. Organization

1. A Steering Committee will be comprised of San Joaquin County Bureau of Investigations employees. The Steering Committee will be responsible for the successful operation of the program and make recommendations to the Chief Investigator through the Program Coordinator. The Steering Committee will have a Chair, Vice Chair, and Secretary.

2. The Chief Investigator will appoint a member of the Bureau staff to act as the Program Coordinator.

3. The Committee shall consist of representatives from throughout the Bureau of Investigations. The Peer Support Program is committed to selecting peer support members with varied ethnic, cultural, and life experiences.

4. An updated listing of countywide community and related sources (such as psychologists, counselors, etc.) shall be maintained.

V. PARTICIPATION

A. Peer support members will consist of the following personnel:

1. Sworn personnel

2. Civilian personnel

B. Peer support members may also be supported and assisted by the following personnel:

1. A Bureau member's union representative

2. Selected psychologists

3. Subject matter speakers (e.g. Critical Incident)

VI. CONFIDENTIALITY

A. The most important aspects of the Peer Support Program are the promotion of trust, anonymity, and confidentiality. Therefore, communications between peer support personnel and employees involved in traumatic incidents shall be confidential, with the following exceptions:

1. There is child abuse involved.

2. There is reason to believe the employee intends to hurt himself/herself or another person.

3. The employee is involved in any crime.

4. At the discretion of the peer support member, where, due to substance abuse or other reasons, the employee is a clear and present danger to self, citizens or fellow employees.

a. If any of the above conditions exist, the Program Coordinator shall be notified. In the case of threatened injury, the intended victim shall also be notified.

B. These exceptions to confidentiality are either required by law or are necessary. Employees who become peer support members cannot abdicate their responsibilities to report criminal conduct as defined in this section. If concerns arise, peer support members shall contact the Program Coordinator for guidance.

C. Confidentiality, as it applies to this program, is not protected by statute; it is protected as a matter of San Joaquin County District Attorney policy.

VII. SELECTION CRITERIA

A. Employees interested in participating in the Peer Support Program shall submit a memorandum of interest to the Program Coordinator.

1. Selections shall be made by the Program Coordinator.

2. For selection to participate in the program, employees shall meet the following criteria:

a. In most cases, peer counseling will take the form of on-duty meetings of relatively short duration; however, overtime may be authorized should a peer support member feel it is necessary to submit for it. Overtime requests shall be submitted through the Program Coordinator for approval.

b. Willingness to attend regularly scheduled meetings and training sessions.

c. Willingness to sign an Understanding of Confidentiality.

d. Willingness to serve a minimum of one year in the program.

VIII. DE-SELECTION CRITERIA

A. De-selection from the program shall be made by the Program Coordinator. De-selection shall be made based on the following criteria:

1. Breach of confidentiality.

2. Lack of participation according to the program guidelines.

3. Inability to participate due to professional and/or personal reasons.

4. Ineffectiveness, as determined by the Steering Committee, in response to critical incidents.

5. Misuse of overtime.

IX. TRAINING

A. Initial training shall consist of 24 hours of POST approved peer support and critical incident instruction. Topics will include the following:

1. Crisis recognition

2. Crisis intervention and counseling

3. Listening skills

4. Assessment skills

5. Substance abuse identification

6. Departmental policies and procedures

7. Defusing and debriefing techniques

8. Sexual Harassment (Federal law mandates supervisors take action on reported incidents.)

B. Yearly refresher training shall be conducted. The San Joaquin County District Attorney's Office Personnel and Training Coordinator will coordinate this training.

X. EVALUATION PROGRAM

A. The Program Coordinator will ensure the completion and submission of an annual report by June 30. The report will include the following:

1. Number of employees comprising the program

2. Number of training sessions held per year

3. Number of debriefings held per year

4. Analysis of the effect of the program

XI. PEER SUPPORT FUNCTIONS

A. To provide emotional support to employees who express a need for assistance.

B. To promote trust, appropriate anonymity, and confidentiality for employees participating in peer support.

C. To develop employee's ability to anticipate personal conflicts and an awareness of available alternatives for self-help.

D. To provide support, upon request, to personnel off-duty due to injury or illness.

E. To identify quality service providers in the community and surrounding area who can be used as counseling referrals.

XII. CRITICAL INCIDENT FUNCTIONS

A. To reduce the likelihood of serious post-trauma stress reactions, the following procedures shall be adhered to:

1. In all critical incidents, the Program Coordinator will be notified.

   a. Peer support personnel on-duty, or a specifically requested peer support member during an incident, shall be called to the scene immediately.

   b. The Program Coordinator or peer support member at the scene will evaluate the situation, and confer with the Program Coordinator, if available, to determine if further members shall be notified.

2. When requested by the employee, or if the incident is of such a nature that trauma can be expected, either a supervisor or his/her designee shall notify an on-duty or specifically requested peer support member to the scene.

3. Employees may select from any available peer support member for assistance in handling personal problems.

B. Critical incident duties shall include the following:

1. Immediate response when called upon for critical incidents.

2. Contact affected personnel to assess their needs, and provide any necessary help.

3. Provide emotional support to involved personnel to diffuse any shock reaction they may be experiencing.

4. Provide information on possible reactions the employee or their family may experience.

5. Suggest resources and referrals the employee or family members may require.

6. Ensure the employee arrives home safely.

7. Explain to the employee the purpose and procedure of the mandated visit to the psychologist.

8. Contact the employee within three (3) days after the incident, or as necessary, to determine if additional help is needed.

XIII. INTERNAL INVESTIGATIONS

A. It may occur that a peer support member is supporting an individual who becomes the subject of a disciplinary investigation. A peer support member should be guided by the confidentiality policy of the Peer Support Program. Peer support members may not hamper or impede the actual investigation, nor may they attempt to shelter the individual from the department.

B. The peer support member's role in disciplinary situations will be one of support in dealing with the problems faced by the person in the disciplinary process.

C. Peer support members may participate as witnesses before boards and hearings as any department employee would. They are free to testify on behalf of another employee, and with the permission of the employee, provide information which would normally be considered confidential. When asked or subpoenaed by the department or other board or body to provide testimony, peer support members shall appear and testify.

(Adopted 07/11)

REPORTING EMPLOYEE OCCUPATION INJURIES AND ILLNESSES (WORKERS' COMPENSATION)

I. POLICY

The duties of an employer as defined by California Code of Regulations (Title 8) 14001 requires: Every employer shall file a complete report of every occupational injury or occupational illness which results in lost time beyond the date of injury/illness or which requires medical treatment.

The employer's liability is determined in part by a specified condition known as "arising out of employment/course of employment".

Supervisors shall follow the requirements and procedures outlined in the attached San Joaquin County "Reporting Employee Occupation Injuries and Illnesses (Workers' Compensation)" policy.

II. PROCEDURE

Labor code 3600(a)(2)(3) indicates:

(a) Liability for the compensation provided by this division, in lieu of any other liability whatsoever to any person except as otherwise specifically provided, and shall without regard to negligence, exist against an employer for any injury sustained by his/her employees arising out of and in the course of the employment.

(2) Where, at the time of the injury, the employee is performing service growing out of and incidental to his/her employment and is acting within the course of his/ her employment

(3) Where the injury is proximately caused by the employment, either with or without negligence

The most common situations in reporting employee occupation injuries and illnesses are:

A. When employee requests immediate medical treatment.

B. When employee declines medical treatment.

C. When employee seeks medical treatment at a later date after declining first request for treatment.

An explanation of the most common situations and the names of the forms required to complete the reporting process are listed below:

A. When employee requests medical treatment beyond first aid
Labor Code 4600 requires:

The employer shall provide medical treatment that is reasonably required to cure or relieve from the effects of the injury.

Forms required:

1. Supervisor's Report of Accident

2. Employee Request for Medical Treatment

3. Employee's Claim for Workers' Compensation Benefits

4. Employer's Report of Occupational Injury or Illness

5. Notice of Leave of Absence for Temporary Disability Indemnity Payment

Listed below is a detailed explanation of the use of each form. The number preceding the form correlates to the form as it applies to each situation.

1. Supervisor's Report of Accident

Upon notification of an injury or illness, a supervisor or manager must complete a Supervisor's Report of Accident form.

The Supervisor's Report of Accident form should:

- Include a detailed description of the accident

- Be completed within 24 hours of the accident or injury.

2. Employee Request for Medical Treatment

Upon notification of an injury or illness, a supervisor or manager must:

- Offer the employee immediate medical treatment.

- Provide the original copy of the Employee Request for Medical Treatment form to the employee.

The employee must provide the request form to the treating physician.

3. Employee's Claim for Workers' Compensation Benefits

Labor code 5401 (a) requires:

Within one (1) working day of receiving notice or knowledge of injury, which results in lost time beyond the date of injury or which results in medical treatment, the employer shall provide, personally or by first-class mail, a claim form and a notice of potential eligibility for benefits to the injured employee.

The Employee's Claim for Workers' Compensation Benefits form must be completed if an injured employee:

- Has notified the employer medical treatment is or has been sought due to a work-related injury or illness and/or,

- Is losing time due to a work-related injury or illness.

Employee must complete top portion of Employee's Claim for Workers' Compensation Benefits form with:

- Date form provided to the employee.

- Complete description of the accident or injury.

- Body part/parts affected.

- Signature of employee.

Employer must complete bottom portion of Employee's Claim for Workers' Compensation Benefits form and must:

- Provide Employee's Claim for Workers' Compensation Benefits form within 24 hours of notification of request for medical treatment and/or lost time.

- Enter date employer first knew of injury, which is the day the employee requested medical treatment and/or lost time.

- If the employee is not readily available to provide the Employee's Claim for Workers' Compensation Benefits form, the supervisor or manager must:

    - Complete the employer portion

    - Make copy of Employee's Claim for Workers' Compensation Benefits form indicating "date mailed"

    - Mail Employees Claim for Workers' Compensation Benefits form to employee

    - Retain copy of Employees Claim for Workers' Compensation Benefits form with Supervisor's Report of Accident and Employee Request for Medical Treatment forms.

4. Employer's Report of Occupational Injury or Illness

Labor code 6409.1 requires:

A report shall be filed for each injury and illness, which has, or is alleged to have, arisen out of and in the course of employment, within five (5) days after the employer obtains knowledge of the injury or illness.

The Employer's Report of Occupational Injury or Illness form must also be completed and forwarded to Risk Management with the Employee's Claim for Workers' Compensation Benefits form within 5 working days of employer's knowledge date.

If on-line filing is available in your department, then a pre-authorized departmental user may file the Employer's Report of Occupational Injury or Illness form electronically. A copy of the submitted form should then be forwarded to Risk Management.

Should the employee fail to return the Employee's Claim for Workers' Compensation Benefits form within the employer's timeline of 5 work days, do not delay submitting the Employer's Report of Occupational Injury or Illness form. Forward the retained copy of Employee's Claim for Workers' Compensation Benefits form, which indicates "date mailed", to Risk Management.

5. Notice of Leave of Absence for Temporary Disability Indemnity Payment

If the injured employee is off work more than three days due to an on-the-job injury, the employee's supervisor or manager must provide Notice of Leave of Absence for Temporary Disability Indemnity Payment form to the injured employee. The Notice of Leave of Absence for Temporary Disability Indemnity Payment form provides the department with the employee's decision regarding use of their accrued time and billing of their insurance premiums for the employee's dependants. The employee will complete the form and return it to their department. The Notice of Leave of Absence for Temporary Disability Indemnity Payment form shall be forwarded to the County Human Resources Department.

On completion of the forms, follow the established guidelines to forward the forms.

B. When employee declines medical treatment:

Forms required:

1. Supervisor's Report of Accident

2. Employee Request for Medical Treatment

Listed below is a detailed explanation of the use of each form. The number preceding the form correlates to the form as it applies to each situation.

1. Supervisor's Report of Accident

Upon notification of an injury or illness, a supervisor or manager must complete a Supervisor's Report of Accident form.

The Supervisor's Report of Accident form should:

- Include a detailed description of the accident
- Be completed within 24 hours of the accident.

2. Employee Request for Medical Treatment

Upon notification of an injury or illness, a supervisor or manager must:

- Offer the employee immediate medical treatment.
- Should the employee decline medical treatment, the employee must sign and date the Employee Request for Medical Treatment indicating, "I have declined the offer of professional medical treatment at this time".
- File the Employee Request for Medical Treatment form along with the Supervisor's Report of Accident form in the departmental personnel file.

C. When employee seeks medical treatment at a later date after declining first request for treatment

Forms required:

1. Supervisor's Report of Accident (initial report)

2a. Employee Request for Medical Treatment (declined copy)

2b. Employee Request for Medical Treatment (new)

3. Employee's Claim for Workers' Compensation Benefits

4. Employer's Report of Occupational Injury or Illness

5. Notice of Leave of Absence for Temporary Disability Indemnity Payment

Listed below is a detailed explanation of the use of each form. The number preceding the form correlates to the form as it applies to each situation.

2b. Employee Request for Medical Treatment (new)

If employee had originally declined medical treatment, but has now decided to seek medical treatment for a work-related injury or illness, a supervisor or manager must:

- Offer the employee immediate medical treatment.

- Provide a new original copy of the Employee Request for Medical Treatment form to the employee with the current date.

The employee must provide the request form to the treating physician.

3. Employee's Claim for Workers' Compensation Benefits

Labor code 5401 (a) requires:

Within one (1) working day of receiving notice or knowledge of injury, which results in lost time beyond the date of injury or which results in medical treatment, the employer shall provide, personally or by first-class mail, a claim form and a notice of potential eligibility for benefits to the injured employee.

The Employee's Claim for Workers' Compensation Benefits form must be completed if an injured employee:

- Has notified the employer medical treatment is or has been sought due to a work-related injury or illness and/or,

- Is losing time due to a work-related injury or illness.

Employee must complete top portion of Employee's Claim for Workers' Compensation Benefits form with:

- Date form provided to the employee.

- Complete description of the accident or injury.

- Body part/parts affected.

- Signature of employee.

Employer must complete bottom portion of Employee's Claim for Workers' Compensation Benefits form with notification of an employee's claim for workers' compensation claim and must:

- Provide Employee's Claim for Workers' Compensation Benefits form within 24 hours on notification of request for medical treatment and/or lost time.

- Enter date employer first knew of injury, which is the day employee requested medical treatment and/or lost time.

- If the employee is not readily available to provide the Employee's Claim for Workers' Compensation Benefits form, the supervisor or manager must:

    - Complete the employer portion.

    - Make copy of Employee's Claim for Workers' Compensation Benefits form indicating "date mailed".

    - Mail Employee's Claim for Workers' Compensation Benefits form to employee.

    - Retain copy of Employee's Claim for Workers' Compensation Benefits form with Supervisor's Report of Accident and Request for Medical Treatment forms.

4. Employer's Report of Occupational Injury or Illness

Labor code 6409.1 requires:

A report shall be filed for each injury and illness, which has, or is alleged to have, arisen out of and in the course of employment, within five (5) days after the employer obtains knowledge of the injury or illness.

The Employer's Report of Occupational Injury or Illness form must also be completed and forwarded to Risk Management with the Employee's Claim for Workers' Compensation Benefits form within 5 working days of employer's knowledge date.

If on-line filing is available in your department, then a pre-authorized departmental user may file the Employer's Report of Occupational Injury or Illness form electronically. A copy of the submitted form should then be forwarded to Risk Management.

Should the employee fail to return the Employee's Claim for Workers' Compensation Benefits form within the employer's timeline of 5 work days, do not delay submitting the Employer's Report of Occupational Injury or Illness form. Forward the retained

copy of Employee's Claim for Workers' Compensation Benefits form, which indicates "date mailed", to Risk Management.

5. *Notice of Leave of Absence for Temporary Disability Indemnity Payment*

If the injured employee is off work more than three days due to an on-the-job injury, the employee's supervisor or manager must provide Notice of Leave of Absence for Temporary Disability Indemnity Payment form to the injured employee. The Notice of Leave of Absence for Temporary Disability Indemnity Payment form provides the department with the employee's decision regarding use of their accrued time and billing of their insurance premiums for the employee's dependants. The employee will complete the form and return it to their department. The Notice of Leave of Absence for Temporary Disability Indemnity Payment form shall be forwarded to the County Human Resources Department.

On completion of the forms, follow the established guidelines to forward the forms.

(Adopted 07/11)

DEATH OR LIFE-THREATENING INJURY TO EMPLOYEES

I. PURPOSE

This procedure applies to any on-duty or off-duty life threatening injury or death of an employee.

II. PROCEDURE

A. Supervisor's Responsibilities:

1. The first supervisory officer to be informed of the death or life-threatening injury of a department employee shall immediately notify the Chief Investigator. If the Chief Investigator is unavailable, the information shall be forwarded to the Lieutenant.

2. The supervisory officer making the notification shall provide the following:

   a. Name of injured or deceased

   b. Date and time of incident

   c. Location of incident

   d. Explanation of how incident occurred

   e. Next of kin to be notified

3. The employee's immediate supervisor shall complete all necessary paperwork for notification to Workers' Compensation as soon as practical.

4. Supervisors shall immediately advise any affected employees of counseling services available through the County's Employee Assistance Program (OPTIONS), and/or Bureau Peer Support Program, and other services available as described in "Post Trauma Incidents."

B. Notification

1. The Chief Investigator or designee will make the notification to the next-of-kin in accordance with the employee's Confidential Emergency Data Form.

2. Notification to the next-of-kin or close relation shall be made in person whenever possible. Whenever impractical due to distance or lengthy time delays, the Chief Investigator may designate another police department to make immediate notification so that the death or injury is not learned of through media/social media channels.

C. Liaison Personnel

1. When a Bureau employee is killed in the line of duty or sustains a life-threatening injury, the Chief Investigator may assign a Bureau employee, or a specific employee of the family's preference, to act as the liaison between the Bureau and the employee's family.

2. The liaison personnel's responsibilities will include:

   a. Meeting with the family and advising them of what his/her responsibilities are as the liaison personnel.

   b. Ensure that the needs of the family are met.

   c. Provide transportation for the spouse/next-of-kin.

   d. In case of death, meet with the family regarding funeral arrangements, and offer any assistance as needed.

   e. Know all of the information regarding the incident and any investigations so the family's questions can be answered, if possible.

   f. The liaison is not a decision-making position, but a role of coordinator and facilitator between the Bureau and the family members.

D. Investigation

1. The Chief Investigator will designate a responsible party for the direction of any investigation of an employee involved in an on-

duty death or life-threatening injury. In the event of an on-duty death of an investigator, an Officer Involved Critical Incident Protocol will be invoked. Even when there is no indication of a crime or suspicious circumstances, the death or life-threatening injury to a Bureau employee should be thoroughly investigated.

2. Notification to the Federal Bureau of Investigation is required for the death of an on-duty peace officer. The Chief Investigator or designee will be the responsible party to make such notification.

(Adopted 07/11)

RETIREMENT ID CARDS AND AUTHORIZATION TO CARRY FIREARM

I. POLICY

A. It is the Bureau's policy to issue identification cards to retiring District Attorney Investigators. The design of the retirement card is solely at the discretion of the Bureau within Penal Code guidelines. The card will indicate whether the retiree is authorized to carry a concealed weapon after retirement.

B. Authorization to carry a concealed weapon is a privilege and not a right. The Bureau's liability and safety to the community are of prime concern and take precedence over the retiree's right to carry a firearm.

II. PROCEDURE

A. The retiree and the Bureau shall conform to the regulations outlined in California Penal Code § 12027, 12027.1, and 12031, which outline the requirements, conditions, and descriptions of those persons authorized to carry a concealed weapon (CCW).

B. A retiree identification card with a CCW endorsement expires every five (5) years. It is the responsibility of the retiree to petition the Bureau for a renewal at that time.

C. Authorization to carry a concealed weapon does not apply to any employment, business or volunteer work the retired investigator may perform. If the activity requires the retiree to be armed, the retired investigator must qualify through means that any other citizen would qualify to be legally armed. If the authorization is used for other employment, volunteer work or business, the authorization to carry a firearm is considered immediately revoked.

D. The retiree must annually qualify with any weapon intended to be carried in retired status.

E. The District Attorney may, at any time, deny or revoke the retired investigator's privilege to carry a firearm or identification card. Good cause includes, but is not limited to, the following:

1. Failure to meet annual qualifications.

2. Retiree's conduct compromises public safety.

3. Suffering an emotional or nervous disorder.

4. Being legally committed, either voluntarily or involuntarily, to any hospital, mental institution, or other facility for treatment of a mental or emotional disorder or for the use of alcohol, drugs, or narcotics, or suffer from an addiction to any or all of the foregoing substances.

5. Committing an act of misconduct, violating any departmental rule, state law or federal law that if violated by an investigator on active duty would result in that investigator's arrest, suspension, or removal from the Bureau.

F. Failure to comply with any provision of this policy and procedure will result in the immediate revocation of the retiree's right to carry a concealed firearm.