



SUBJECT:

**Investigative Services Policy
Manual**

DATED: January 1, 2021

INTRODUCTION

PURPOSE

The purpose of this manual is to set guidelines, expectations, procedures, and regulations pertaining to the handling and disposition of criminal investigations.

To achieve this purpose, this manual provides direction relating to Administrative Policy, Chain of Command, Employee Conduct, and Operational Policy and Procedure. The rules and regulations in this manual are used in conjunction with the County of Yuba's policies, and supersede any previous version of rules or regulations issued by this Office.

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

600.2 POLICY

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

600.3 POLICY REVIEW

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

600.4 POLICY AVAILABILITY

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

600.5 PUBLIC RECORDS REQUESTS

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

DISCLAIMER

The policies contained within this manual are for the internal use of the Yuba County District Attorney's Office and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the County, its officials or members. Violations of any provision of any policy contained within this manual shall only form the basis for department administrative action, training or discipline. The Yuba County District Attorney's Office reserves the right to revise any policy content, in whole or in part.

GOALS

The purpose of the Investigative Services Unit is to ensure thorough, professional investigations in support of prosecution efforts, and to provide the highest quality of service with understanding and compassion for victims of crime and professional interaction with allied agencies and personnel.

Major objectives include:

- Conducting investigative enhancement of criminal cases received and filed by the District Attorney's Office, as required.
- Investigative assistance to other law enforcement agencies, upon request, in matters involving criminal activity – including the service of search and arrest warrants – where such assistance, manpower, or expertise may be desired.
- The location, detection, and transportation of witnesses in criminal matters, and the protection, security, relocation, and concealment of witnesses whose lives are in jeopardy or have been threatened.
- Undertaking and completing special investigations, including:

- criminal activity within local municipalities, government agencies, and political offices relating to fraud, corruption, and criminal improprieties
- the collection of criminal intelligence on matters relating to organized criminal enterprises or adult/juvenile gangs
- officer involved shootings
- child abduction and concealment
- significant cases of major complexity
- Grand Jury investigations
- Protection and security of the District Attorney Office staff and office space, including the CLETS system and evidence retention system.
- Providing education and training to other law enforcement personnel or agencies.

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CHAPTER 1 – LAW ENFORCEMENT ROLE AND AUTHORITY

Policy 100	SUBJECT: Law Enforcement Authority
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100.1 AUTHORITY OF THE DISTRICT ATTORNEY INVESTIGATOR

California courts have held that the investigation and gathering of evidence relating to criminal offenses is a responsibility that 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. DA Investigators, like the District Attorney, have independent jurisdiction in the county and those cities within the county.

100.2 CONSTITUTIONAL REQUIREMENTS

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

100.4 PEACE OFFICER POWERS

Statutory Authority Afforded DA Investigators

Penal Code Section 830.1 – Peace Officer Powers

District Attorney Investigators are peace officers. The authority of such investigators is statewide including investigations within Yuba County, 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 persons or property.

Penal Code Section 1326

DA Investigators have the power to issue subpoenas on their own signature.

100.6 ARREST AUTHORITY WITHIN THE JURISDICTION OF THE YUBA COUNTY DISTRICT ATTORNEY'S OFFICE

The arrest authority within the State of California is as follows (Penal Code § 830.1):

- (a) As to any public offense committed or which there is probable cause to believe has been committed within the jurisdiction of the Yuba County District Attorney's Office.
- (b) Where the peace officer has the consent of the District Attorney.
- (c) As to any public offense committed or which there is probable cause to believe has been committed in the investigator's presence and there is immediate danger to a person or property, or of the escape of the perpetrator of the offense.
- (d) Arrest pursuant to a warrant. For out-of-county warrants, the arresting investigator shall inform the arrestee, in writing without delay, of the right to be taken before a magistrate in this county (Penal Code § 821; Penal Code § 822):

100.8 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE YUBA COUNTY DISTRICT ATTORNEY'S OFFICE

On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot or fresh pursuit, while following up on crimes committed with the County or while assisting another agency. On-duty investigators who discover criminal activity outside the jurisdiction of the County

should, when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

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CHAPTER 2 – ORGANIZATION AND ADMINISTRATION

Policy 200	SUBJECT: Organizational Structure and Responsibility
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200.1 COMMAND PROTOCOL

Investigators are appointed by the District Attorney and report directly to the Chief District Attorney Investigator, who is responsible for the overall supervision and operation of the Investigative Services Unit.

Individual Investigators assigned to vertical prosecution programs may work under the functional direction of the Deputy District Attorney assigned to the program.

The order of succession, in the absence of the District Attorney and Chief District Attorney Investigator, are the Chief Deputy District Attorney followed by the most senior Deputy District Attorney available. In their absence, it shall be to the senior-most Investigator on duty.

200.2 ORDERS

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

200.4 INTERIM DIRECTIVE PROTOCOL

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

Any Interim Directives issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number "01" For example, 10-01 signifies the first Departmental Directive for the year 2010.

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

200.6 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

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

200.8 ANNUAL REVIEW

At least annually, the Chief Investigator should prepare an analysis report to be submitted to the District Attorney. The report should include:

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

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CHAPTER 3 – STANDARDS OF CONDUCT

Policy 300	SUBJECT: Standards of Conduct
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300.0 PURPOSE AND SCOPE

DA Investigators are highly visible representatives of the District Attorney’s Office and are entrusted with the responsibility of conducting professional investigations and providing other services in support of complex, sensitive cases. In this regard, Investigative Services Unit personnel will conduct themselves in a manner which does not bring discredit upon individuals, the officer, the County or the community.

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

Law Enforcement Code of Ethics

The success of a DA Investigator is dependent upon the individual’s character and credibility which, in turn, is reflected in the quality of services provided to the Office and the community.

The mark of every profession is a high ethical standard. The Law Enforcement Code of Ethics is adopted by the Yuba County District Attorney’s Office

Investigative Services Unit and serves as a reminder that the objectives of professional law enforcement are of the highest order.

- “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 men to liberty, equality and justice.
- I will keep my private life unsullied as an example to all; 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 friendship to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or face, malice of 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 police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession--Law Enforcement.”

340.2 POLICY

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

340.4 CAUSES FOR DISCIPLINE

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

340.4.1 LAWS, RULES AND ORDERS

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

340.4.2 ETHICS

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

340.4.3 DISCRIMINATION, OPPRESSION OR FAVORITISM

Discriminating against, oppressing or providing favoritism to any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

340.4.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

340.4.5 ATTENDANCE

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

340.4.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the member's position with this department.
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the District Attorney or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away or appropriating any Yuba County District Attorney's Office badge, uniform, identification card or department property for personal or any other improper or unauthorized use or purpose.

- (e) Using department resources in association with any portion of an independent civil action. These resources include, but are not limited to, personnel, vehicles, equipment and non-subpoenaed records.

340.4.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Department within 24 hours of any change in residence address, contact telephone numbers or marital status.

340.4.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.

- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting while on department premises, while on-duty, or while using any department equipment or system. Gambling activity undertaken as part of an investigator's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Engaging in political activities during assigned working hours except as expressly authorized by County policy, the memorandum of understanding, or the District Attorney.

340.4.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law enforcement agency or that may result in criminal prosecution or discipline under this policy.
- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the County.
- (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.

- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the District Attorney of such action.
- (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

340.4.10 SAFETY

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

340.4.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is

authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.

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

340.6 LEVELS OF DISCIPLINE

- (a) **Level 1-Counseling by a superior officer:** No written record other than supervisory notes maintained by the person doing the counseling for the duration of the employee's evaluation period.
- (b) **Level 2-Oral Reprimand:** This is accomplished by confirming written memo, which will not be placed in the employee's personnel file unless a subsequent offense occurs of a related matter. The original is given to the employee and a copy is retained by the issuing supervisor with his/her supervisory notes.
- (c) **Level 3-Written Reprimand:** A formal notice in memo format to the employee informing him/ her that their performance and/or behavior must improve. This type of discipline is generally used when counseling or other non-disciplinary methods have not worked or is more offense that is serious. The notice should define the area where improvement is needed and outline future disciplinary action to be taken if there is no improvement. The notice shall be placed into the employee's personnel file.
- (d) **Level 4-Economic Sanction:** This action is generally reserved for more serious or repeated offenses. It includes suspension, demotion, and/or reduction in pay.
- (e) **Level 5-Termination:** This action is the last step in the progressive discipline process.

Levels 1, 2, and 3 can be implemented by any supervisory or management personnel. Levels 4 and 5 can be implemented only by the Chief Deputy District Attorney and/or District Attorney. Before implementation of levels 4 and 5, the County's Human Resource Director or their Deputy Director shall be consulted. In the case of Level 5, County Counsel shall also be consulted.

The level of discipline used should be determined by the nature and seriousness of the offense or behavior, the repetitive nature of the behavior and the employees previous work history.

If discipline levels 3, 4 and 5 is the expected outcome, it shall be handled as an "investigators hearing" in accordance with applicable law.

340.8 SUPERVISOR RESPONSIBILITIES

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

- (a) Failure to be reasonably aware of the performance of their subordinates or to provide appropriate guidance and control.
- (b) Failure to promptly and fully report any known misconduct of a member to his/her immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiesce to such a violation, or are indifferent to any such violation by a subordinate.
- (d) The unequal or disparate exercise of authority on the part of a supervisor toward any member for malicious or other improper purpose.

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

340.10 SUSPENSION WITHOUT PAY DUE TO PENDING CHARGES

The District Attorney, upon giving notice as required, and consulting with the Human Resource Director, may suspend an employee with or without pay, against whom there is a pending criminal charge or policy violation which adversely affects the county service or conflicts with continued employment.

340.12 EMERGENCY PERSONNEL ACTIONS

On occasion, unusual or inappropriate behavior by a Department employee may require managers to take immediate personnel action to provide for the safety of individuals or security of Department facilities. The guiding principle of this section is to provide employees with a safe, secure working environment and to minimize disruption of service to the public. The emergency action should be taken by the highest available command level, depending on the time of occurrence. Ideally, the Chief Investigator should be involved; if unavailable, the Chief Deputy District Attorney must be contacted.

When it becomes apparent that emergency personnel action may be necessary, the Chief Investigator or his/her designee must verify the emergency action should be taken. Depending on the information available and the seriousness of the employee's action or behavior the following should be taken.

- (a) If necessary, immediately order the employee to be seen by an on-call therapist from **Occupation Health Services** and have the employee observed or monitored until he/she can be seen by the psychologist.
- (b) Place the employee on "Temporary Leave of Absence with Pay" preparing a memo to the effect and having the employee sign it. OR
- (c) Have the employee report to a work location where supervision can be provided, pending outcome of the investigation or medical review.
- (d) Revoke the employee's police powers by collecting the duty weapon and other safety equipment, badge, and identification. The Chief Investigator shall maintain temporary possession of the equipment and monitor the employee's status on a day-to-day basis until a decision is made regarding any permanent action or return to duty.

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CHAPTER 4 – GENERAL OPERATIONS

Policy 400

SUBJECT:

Investigative Request Procedures

400.0 ACCEPTING ASSIGNMENTS AND PROVIDING SERVICES

Investigative Services personnel will perform all duties required of them by competent authority. Personnel will also be responsible for providing such services as may be assigned to them in pursuit of office goals and objectives.

Coordination and cooperation between the Investigators, prosecutors, and allied agencies is essential if cases are to be successfully prosecuted.

Deputy District Attorneys using the services of the Investigations Unit must make the request in a timely manner and use the Further Investigation Form. The Form shall specify the DAI, with the original provided to the DA Investigator, and one copy retained in the case file. The case file or investigative referral needing work should accompany the request, if appropriate.

400.2 TEAMWORK

In order to be effective, the Investigations Unit must function as a team. In that regard, all members should be ready to provide and ask for assistance whenever necessary. In the event of planned or unexpected absences, members will advise the Chief Investigator of any tasks that must be completed within the absence time frame so that they may be reassigned if necessary.

DA Investigators assigned to vertical prosecution programs are expected to coordinate the prioritization of their work with the assigned prosecutor. No

investigative work outside the assigned program should be done without clearance from the Chief Investigator.

Policy 402	SUBJECT: Departmental Directive
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402.0 DIRECTIVES AND ORDERS

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

402.2 UNLAWFUL OR CONFLICTING ORDERS

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

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

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply.

Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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

Policy 404	SUBJECT: Use of Force
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404.0 COMPREHENSIVE USE OF FORCE POLICY

Investigators confronted with situations where control is required to effect arrests or protect the public safety should attempt 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.

Only the type and degree of force necessary and reasonable for the situation and facts known at the time shall be used.

Investigators are expected to anticipate circumstances of potential physical confrontation or resistance and, where feasible, request in advance the assistance of uniformed officers from the local jurisdiction.

404.2 PURPOSE AND SCOPE

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

404.4 DEFINITIONS

Definitions related to this policy include:

Deadly force - Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

Force - The application of physical techniques or tactics, chemical agents or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed or restrained.

404.6 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Investigators are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Investigators must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting investigators with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests. Investigators are expected to carry out their duties, including the use of force, in a matter that is fair and unbiased (Government Code Section 7286(b)).

404.8 DUTY TO INTERCEDE

Any investigator present and observing another investigator using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An investigator who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

404.10 USE OF FORCE

Investigators shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the investigator at the time of the event to accomplish a legitimate law enforcement purpose.

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

Given that no policy can realistically predict every possible situation an investigator might encounter, investigators are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

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

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

404.12 USE OF FORCE TO EFFECT AN ARREST

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

404.13 ALTERNATIVE TACTICS-DE-ESCALATION

As time and circumstance reasonably permit, and when community and investigator safety would not be compromised, investigators should consider actions that may increase investigator safety and may decrease the need for use of force:

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

In addition, when reasonable, investigators should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that

may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code Section 7286(b)). Such alternatives may include by are not limited to:

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

404.14 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

- (a) Immediacy and severity of the threat to investigators or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the investigator at the time.
- (c) Investigator/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, and the number of investigators available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the investigator.
- (k) Potential for injury to investigators, suspects and others.

- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the investigator.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the investigator or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

404.14 PAIN COMPLIANCE TECHNIQUES

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

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

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

404.16 CAROTID CONTROL HOLD

Investigators of the Yuba County District Attorney's Office are **not** authorized to use a carotid restraint hold. A carotid restraint hold means a vascular neck restraint or any similar restraint, hold, or other defensive tactic in which pressure is applied to the sides of a person's neck that involves a substantial risk of

restricting blood flow and may render the person unconscious in order to subdue or control the person (Government Code Section 7286.5).

404.18 USE OF FORCE TO SEIZE EVIDENCE

In general, investigators may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, investigators are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, investigators should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted.

404.20 DEADLY FORCE APPLICATIONS

Use of deadly force upon another person is justified when an investigator reasonably believes, based on the totality of the circumstances, that such force is necessary in the following circumstances:

- (a) To defend against an imminent threat of death or serious bodily injury to the investigator or another person;
- (b) To apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury to another, if the investigator reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Under such circumstances, an investigator should make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the investigator has objectively reasonable grounds to believe the person is aware of those facts.

A threat of death or serious bodily injury is “imminent” when, based on the totality of the circumstances, a reasonable investigator in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the investigator or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if an investigator reasonably believes any of the following:

1. The person has a deadly weapon, or is attempting to access one, and it is reasonable to believe the person intends to immediately use it against the investigator or another person.
2. The person is capable of causing serious bodily injury or death to another without a weapon and it is reasonable to believe the person intends to immediately cause death or serious bodily injury to another.
3. An investigator **shall not** use deadly force against a person based on the danger that the person poses to themselves, if an objectively reasonable investigator would believe the person does not pose an imminent threat of death or serious bodily injury to the investigator or another person.
4. An investigator should, to the extent, it is reasonable to do so, consider their surroundings and potential risks to bystanders, before discharging a weapon.

404.22 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective. Investigators should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An investigator should only discharge a firearm at a moving vehicle or its occupants when the investigator reasonably believes there are no other reasonable means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the investigator or others. Investigators should not shoot at any part of a vehicle in an attempt to disable the vehicle.

404.24 REPORTING THE USE OF FORCE

Any use of force by a member of this department shall be documented promptly, completely and accurately in an appropriate report, depending on the nature of the incident. The investigator should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances.

404.26 NOTIFICATION TO SUPERVISORS

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

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable investigator to conclude that the individual may have experienced more than momentary discomfort.
- (c) The individual subjected to the force complained of injury or continuing pain.

- (d) The individual indicates intent to pursue litigation.
- (e) Any application of a control device.
- (f) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges any of the above has occurred.

404.28 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Chief Investigator or the authorized designee shall ensure that data required by the Department of Justice (DOJ) regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is collected and forwarded to the DOJ as required by Government Code § 12525.2.

404.30 MEDICAL CONSIDERATION

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

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

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

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

404.32 SUPERVISOR RESPONSIBILITY

When a supervisor is able to respond to an incident in which there has been a reported application of force, the supervisor is expected to:

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

1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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

404.34 CHIEF INVESTIGATOR RESPONSIBILITY

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

404.36 TRAINING

Investigators will receive periodic training on this policy and demonstrate their knowledge and understanding.

404.38 REMOVAL FROM LINE DUTY ASSIGNMENT

Generally, whenever an employee's actions or use of force in an official capacity, or while using department equipment, results in death or very serious injury to another, that employee will be placed in a temporary administrative assignment pending an administrative review. The District Attorney may exercise discretion and choose not to place an employee in an administrative assignment in any case.

**Policy
406**

SUBJECT:

Control Devices and Techniques

406.0 POLICY

The Yuba County District Attorney's Office authorizes investigators to use control devices and techniques in accordance with the guidelines in this policy.

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

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

406.2 ISSUING, CARRYING AND USING CONTROL DEVICES

Control devices described in this policy may be carried and used by members of this department only if the device has been issued by the Department or approved by the District Attorney or the authorized designee.

All normal maintenance, charging or cleaning shall remain the responsibility of personnel using the various devices. Any damaged, inoperative, outdated or expended control device, along with documentation explaining the cause of the damage, shall be returned to the Chief Investigator for disposition. Damage to County property forms shall also be prepared and forwarded through the chain of command, when appropriate, explaining the cause of damage.

406.4 TRAINING FOR CONTROL DEVICES

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

The Chief Investigator shall ensure that all personnel who are authorized to carry a control device have been properly trained and certified to carry the specific control device and are retrained or recertified as necessary.

- (a) Proficiency training shall be provided and documented by a certified, control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the investigator's training file.

Investigators who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an investigator cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the investigator will be restricted from carrying the control device and may be subject to discipline.

406.6 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

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

406.8 IMPACT WEAPONS

Impact weapons (Baton) may be used as defensive or control weapons in those instance that threaten the safety of an investigator or other persons where other reasonable alternatives have failed or would be ineffective.

Investigators will not use impact weapons against non-combative persons. The head, neck, throat, spine, heart, kidneys and groin should not be intentionally targeted except when the investigator reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the investigator or others.

When use of an impact weapon causes injury that would reasonably require medical attention, the Investigator will ensure the injured individual receives proper medical attention.

406.10 CAROTID CONTROL HOLD

As previously stated in section 404.16, the Carotid Control Hold is not an authorized use of force for investigators (Government Code Section 7286.5).

406.12 CHEMICAL AGENT (OC) SPRAY GUIDELINES

Chemical agents (oleoresin capsicum (OC) spray) shall only be used as a defensive or control weapon in those instances that threaten the safety of an investigator or other person(s). Chemical agents will not be used against non-combative persons, or against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

406.14 TREATMENT FOR OC SPRAY EXPOSURE

Persons who have been sprayed with or otherwise affected by the use of OC should be promptly provided with clean water to cleanse the affected areas. Those persons who complain of further severe effects shall be examined by appropriate medical personnel. When booking subjects exposed to chemical agents, jail personnel shall be advised of this fact to prevent contamination of custodial personnel or other prisoners.

406.16 POST-APPLICATION NOTICE

Whenever tear gas or OC has been introduced into a residence, building interior, vehicle or other enclosed area, investigators should provide the owners or available occupants with notice of the possible presence of residue that could result in irritation or injury if the area is not properly cleaned.

Such notice should include advisement that clean-up will be at the owner's expense. Information regarding the method of notice and the individuals notified should be included in related reports.

**Policy
408**

SUBJECT:

Use of Restraints

408.0 PURPOSE AND SCOPE

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

408.2 POLICY

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

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy.

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

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

408.4 USE OF RESTRAINTS

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

- (a) The circumstances or crime leading to the arrest.

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

408.10 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain an individual who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to assure the safety of investigators and others. When deciding whether to remove restraints from a detainee, investigators should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

408.12 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety and in no event shall these persons be restrained by the use of leg irons, waist chains or handcuffs behind the body.

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

408.14 RESTRAINT OF JUVENILES

A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the investigator has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the investigator or damage property.

408.16 NOTIFICATIONS

Whenever an investigator transports a person with the use of restraints other than handcuffs, the investigator shall inform the jail staff upon arrival at the jail that restraints were used.

This notification should include information regarding any other circumstances the investigator reasonably believes would be potential safety concerns or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during transportation to the jail.

408.18 REQUIRED DOCUMENTATION

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

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

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

408.20 HANDCUFFING GUIDELINES

Handcuffs are temporary restraints that restrict the movement of a suspects' hands. Handcuffs should be applied on the wrist, between the hand and the protruding base of the ulnar bone. Investigators should be aware that if the handcuffs are applied to tight, they could cut off blood circulation.

When an investigator takes a suspect into lawful custody, the suspect should be properly searched and handcuffed with his/her hands behind the back. If the suspect has physical limitations that prevent handcuffing behind the back, investigators may handcuff a suspect in front of the torso.

Except in an emergency, do not handcuff;

- (a) An adult to a juvenile
- (b) A male to a female
- (c) Any suspect to a stationary object.

Handcuffs should be double locked prior to transporting an arrestee. It is the responsibility of the investigator to keep his/her handcuffs clean and in good working condition.

Defective handcuffs should be reported to a supervisor and replaced as necessary.

Policy 410	SUBJECT: Firearms
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410.0 PURPOSE AND SCOPE

This policy provides guidelines for issuing firearms, the safe and legal carrying of firearms, firearms maintenance and firearms training. This policy does not apply to issues related to the use of firearms that are addressed in the Use of Force or Officer-Involved Shootings and Deaths policies. This policy only applies to those members who are authorized to carry firearms.

410.2 POLICY

The Yuba County District Attorney's Office will equip its members with firearms to address the risks posed to the public and department members by violent and sometimes well-armed persons.

The Department will ensure firearms are appropriate and in good working order and relevant training is provided as resources allow.

410.4 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department. except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized department range.

All other weapons not provided by the Department, including, but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by department policy, may not be carried by members in the performance of their official duties without the express written authorization of the member's Chief Investigator. This exclusion does not apply to the carrying of knives that are not otherwise prohibited by law.

410.5 DISPLAYING OF FIREARMS

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

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

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

410.6 HANDGUNS

The authorized department-issued handgun is the 9mm SIG P320 M18. Personally owned handguns may be approved for on-duty use at the discretion of the Chief Investigator and upon inspection of the Range Master.

410.8 SHOTGUNS AND RIFLES

Members may deploy a shotgun or rifle in circumstances where the member reasonably anticipates an imminent threat to human safety, the use of deadly force is required, and alternative methods to meet the threat are not reasonably available or would likely be ineffective.

Examples include, but are not limited to, when a member reasonably believes that there may be a need to fire on a person with a hostage or a member reasonably believes that a suspect may be wearing body armor.

PURPOSE AND SCOPE

In order to more effectively and accurately address the increasing level of firepower and body armor utilized by criminal suspects, the Yuba County District Attorney's Office will allow qualified investigators, to carry department approved patrol rifles as an additional and more immediate tactical resource.

DEFINITION:

A rifle is an authorized weapon, which is made available to properly trained and qualified investigators as a supplemental resource to their duty handgun. Personally owned rifles may be carried only upon pre-approval by the Chief Investigator.

SPECIFICATIONS:

Only weapons and ammunition that meet agency authorized specifications, approved by the Chief Investigator may be used by investigators in their law enforcement responsibilities. Since the department does not issue patrol rifles to investigators, they may carry personally owned rifles designed to fire 5.56 / .223 caliber ammunition. Personally owned rifles may only be carried with pre-approval by the Chief Investigator.

RIFLE MAINTENANCE

1) Each investigator carrying a patrol rifle will be required to field strip and clean their carried rifle as needed.

- 2) Each investigator shall be responsible for promptly reporting any damage or malfunction of each carried rifle to the Chief Investigator.
- 3) Any patrol rifle found to be unserviceable shall be removed from service.
- 4) Each patrol rifle is subject to inspection by a supervisor at any time
- 5) No modification shall be made to any patrol rifle without prior authorization from the Chief Investigator.

TRAINING

Investigators shall not carry or utilize the patrol rifle unless they have successfully completed California POST approved training. This training shall consist of an initial 16- hour patrol rifle user's course and qualification score with a certified patrol rifle instructor. Investigators shall thereafter be required to successfully complete annual training and qualification conducted a qualified law enforcement Range Master.

DEPLOYMENT OF THE PATROL RIFLE

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

- 1) Situations where the investigator reasonably anticipates an armed encounter.
- 2) When an investigator is faced with a situation that may require the delivery of accurate and effective fire at medium or long range.
- 3) Situations where an investigator reasonably expects the need to meet or exceed a suspect's firepower.
- 4) When an investigator reasonably believes that a suspect may be wearing body armor.
- 5) When conducting search warrant entries or other high risk entries.
- 6) When responding to an active shooter incident.
- 7) When needed to euthanize an animal.

DICHARGE OF THE PATROL RIFLE

The discharge of the patrol rifle shall be governed by the Department Deadly Force Policy.

PATROL READY

Any qualified investigator carrying a patrol rifle in the field shall maintain the weapon in a patrol ready condition. Patrol ready condition will consist the fire select switch is in the safe position, a loaded magazine inserted into the rifle magazine well of the rifle and the patrol rifle's chamber will be empty and clear of any ammunition until the rifle is deployed.

PATROL RIFLE STORAGE

When not deployed, in-service patrol rifles should be secured in the vehicle in a locked gun rack, in the trunk, and secured in a manner to prevent unauthorized access. When off duty, the rifle shall not be left in the investigator's vehicle and shall be secured in a location and manner to prevent access by children or unauthorized adults.

410.10 PERSONALLY OWNED DUTY FIREARMS

Members desiring to carry an authorized but personally owned duty firearm must receive written approval from the District Attorney or the authorized designee.

Once approved, personally owned duty firearms are subject to the following restrictions:

- (a) The firearm shall be in good working order and approved by the department.
- (b) The firearm shall be inspected by the Chief Investigator or Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (c) Prior to carrying the firearm, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (d) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Chief Investigator, who will maintain a list of the information.

10.12 AUTHORIZED SECONDARY HANDGUN

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

- (a) The handgun shall be in good working order and approved by the department.
- (b) Only one secondary handgun may be carried at a time.

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

410.14 AUTHORIZED OFF-DUTY FIREARMS

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

- (a) The member may use his/her duty firearm or may use a personally owned firearm that is carried and inspected in accordance with the Personally Owned Duty Firearms requirements in this policy. A member carrying his/her duty firearm will be deemed to have complied with (c), (d) and (e) of this section.
- (b) If a member desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (c) Members shall only carry department-authorized ammunition.

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

410.16 AMMUNITION

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

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

410.18 EQUIPMENT

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

410.20 REPAIRS OR MODIFICATIONS

Each member shall be responsible for promptly reporting any damage or malfunction of an assigned firearm to the Chief Investigator. Firearms that are the property of the Department or personally owned firearms that are approved for department use may be repaired or modified only by a person who is department-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Chief Investigator. Any repairs or modifications to the member's personally owned firearm shall be done at his/her expense and must be approved by the Chief Investigator.

410.22 HOLSTERS

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

410.24 TACTICAL LIGHTS AND OPTICS OR LASER SIGHTS

Tactical lights, optics, and laser sights may only be installed on a firearm carried on- or off-duty after they have been examined and approved by the Chief Investigator. Items shall only be installed in accordance with the manufacturer's specifications.

Once the approved items have been properly installed on any firearm, the member shall qualify with the firearm to ensure proper functionality and sighting of the firearm prior to carrying it. Except in an approved training situation, a member may only sight in on a target when the member would otherwise be justified in pointing a firearm at the target.

410.26 SAFE HANDLING, INSPECTION AND STORAGE

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

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Members shall not dry fire or practice quick draws except as instructed by the Rangemaster or other firearms training staff.
- (c) Members shall not clean, repair, load or unload a firearm anywhere in the Department.
- (d) Members shall not place or store any firearm on department premises except where the place of storage is locked. Handguns may remain loaded if they are secured in an appropriate holster.
- (e) Any firearm authorized by the Department to be carried on- or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried.

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

- (f) Handguns shall be inspected regularly and upon access or possession by another person.

410.28 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access. Members shall not permit department-issued firearms to be handled by anyone not authorized by the Department to do so. Members should

be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100). Firearms may not be left in a vehicle during non-working hours.

410.30 ALCOHOL AND DRUGS

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

410.32 FIREARMS TRAINING AND QUALIFICATIONS

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

At least annually, all members carrying a firearm should receive practical training designed to simulate field situations.

410.34 NON-CERTIFICATION OR NON-QUALIFICATION

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

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

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

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

410.36 FIREARM DISCHARGE

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

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

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

410.38 DESTRUCTION OF ANIMALS

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

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

410.40 INJURED ANIMALS

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

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

410.42 WARNING AND OTHER SHOTS

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

410.44 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft (49 CFR 1544.219). Investigators armed while flying on a commercial air carrier or flights must be flying in an official capacity, must have a need to have the firearm accessible as determined by the Department based on the law and published TSA rules, and have TSA authorization prior to travel.

410.46 CARRYING FIREARMS OUT OF STATE

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

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

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

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

Policy 412	SUBJECT: Vehicle Pursuits
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412.0 VEHICLE PURSUITS

The decision to pursue a vehicle pursuit is a critical choice that must be made quickly and under circumstances that are often difficult and unpredictable. In recognizing the potential risk to public and personnel safety created by vehicle pursuits, no DA Investigator shall be criticized or disciplined for deciding not to engage in a vehicle pursuit because of the risk involved. This includes circumstances where office policy would permit the initiation or continuation of a pursuit.

412.2 POLICY REVIEW

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

412.4 APPLICATION OF VEHICLE PURSUIT POLICY

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

412.6 DEFINITION

A pursuit is defined as an event involving one or more law enforcement officers attempting to apprehend a suspect operating a motor vehicle while the suspect operating a motor vehicle while the suspect is trying to avoid arrest by using high-speed driving or other evasive tactics such as driving off a highway, turning suddenly or driving in an illegal manner, and willfully failing to yield to emergency lights and siren.

412.8 REQUIRED EQUIPMENT

Pursuits of suspected offenders by District Attorney Investigators shall be conducted only in vehicles that are equipped with operational red lights and sirens.

The exemptions provided by Vehicle Code § 21055 do not apply to investigators using vehicles without emergency equipment.

412.10 RESTRICTIONS

Unmarked vehicles generally should refrain from initiating or joining any pursuit. DA Investigators in such vehicles shall restrict their use of emergency lights or sirens to the following situations:

1. The prevention of loss of life or the prevention of serious injury when immediate assistance can be rendered; or
2. The pursuit of a law violator who attempts to flee in a vehicle in order to avoid a felony arrest for a violation of a serious felony, as defined in Penal Code section 1192.7(c), and his/her escape and continued freedom would pose a threat to the safety of investigator or others; or
3. When directed by a supervising authority.

Investigators in such situations shall activate emergency lights and siren continuously and immediately request assistance from the law enforcement agency having jurisdiction.

The Investigator will advise the agency of the following:

1. Reason for the pursuit
2. Location and direction of travel
3. Speed of the fleeing vehicle
4. Description of the vehicle and license number if known
5. Number of known occupants
6. Identity or description of the known occupants
7. Information concerning the use of firearms, use of force, injuries, hostages, or other unusual hazards
8. During the pursuit, the above information should be updated, as practical and as circumstances change

412.12 CONSIDERATIONS FOR CONTINUATION

Once a pursuit is initiated, the DA Investigator shall continually evaluate the necessity of continuing the pursuit. In this evaluation the following shall be considered:

1. Safety of the Public
2. Safety of the DA Investigator
3. Volume of traffic (vehicular and pedestrian)
4. Location and road conditions
5. Time of day and weather conditions
6. Speed
7. Familiarity with the area of pursuit
8. Quality of radio communications between the pursuing unit, law enforcement dispatch, and other units
9. The driving capability of the pursuing driver under the conditions of the pursuit, and whether the pursuing vehicle is capable of staying with or overtaking the suspect vehicle
10. The presence of other persons in the pursued vehicle and their status as passengers, co-offenders, or hostages)
11. Availability of other law enforcement resources (ground and air)
12. Whether or not the identity of the offender has been established to the point that he/she could be arrested at a later date
13. Uncertainty as to location of the pursued vehicle

The supervisor of the jurisdictional agency the pursuit occurs in will have supervisory responsibility of the pursuit, including status communications and direction to terminate the pursuit when necessary.

Upon arrival of marked law enforcement units, the Investigator shall terminate the pursuit and proceed to the termination point.

412.14 JOINING PURSUITS

DA Investigators shall not join a pursuit unless specifically requested by the agency whose officers are in pursuit. The mere notification by another agency that a pursuit is in progress shall not be construed as a request to assist.

If a pursuit is joined, the DA Investigator shall continuously evaluate the necessity of continuing the pursuit using the factors previously listed.

412.16 PURSUIT DRIVING TACTICS

The decision to use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit:

- (a) Investigators, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
 - 1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
 - 2. Pursuing units should exercise due caution when proceeding through controlled intersections.
- (c) As a general rule, investigators should not pursue a vehicle driving left of center (wrong way) on a freeway. In the event that the pursued vehicle does so, the following tactics should be considered:
 - 1. Requesting assistance from an air unit.
 - 2. Maintaining visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
 - 3. Requesting other units to observe exits available to the suspects.
- (d) Notifying the California Highway Patrol (CHP) and/or other jurisdictional agency if it appears that the pursuit may enter their jurisdiction.
- (e) Investigators involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit.

412.18 PURSUIT INTERVENTION

- (a) Vehicular DA Investigators will not attempt to terminate the ability of a suspect to continue to flee through blocking, boxing, ramming, or a PIT (pursuit intervention technique) maneuver or other similar intervention procedure. A forcible stop of a pursued vehicle may be undertaken only under circumstances which would provide justification for the use of lethal force.
- (b) Firearms Firearms shall not be used to disable a pursued vehicle unless the conditions and circumstances dictate that such use appears necessary to protect life. This section shall not be construed to prohibit the use of a firearm to stop a suspect from using his/her vehicle as a deadly weapon.

412.20 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

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

Non-pursuing personnel needed at the termination of the pursuit should respond in a nonemergency manner, observing the rules of the road. The primary and secondary units should be the only units operating under emergency conditions (red light and siren) unless other units are assigned to the pursuit.

412.22 PURSUIT TRAILING

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

The term trail means to follow the path of the pursuit at a safe speed while obeying all traffic laws and without activating emergency equipment. If the pursuit is at a slow rate of speed, the trailing unit will maintain sufficient distance from the pursuit units so as to clearly indicate an absence of participation in the pursuit.

412.24 REPORTING REQUIREMENTS

A DA Investigator shall verbally notify the Chief Investigator and Chief Deputy District Attorney of his/her participation in a pursuit as soon as possible after its termination. The notification shall include the following information:

1. The date and time of the pursuit

2. Initial reason for the pursuit
3. Starting and termination points, and length of the pursuit
4. Involved agencies, including the supervisor of the jurisdictional agency involved
5. Disposition and arrestee information, if applicable
6. Injuries and/or property damage

The DA Investigator shall prepare a subsequent written report documenting the details of the pursuit

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

The Chief Investigator will provide the District Attorney with a determination whether the pursuit appears to be in compliance with this policy and whether additional review or follow-up is warranted.

Policy 414	SUBJECT: Investigator Response to Calls
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414.0 PURPOSE AND SCOPE

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

414.2 RESPONSE TO CALLS

Investigators should only respond Code-3 when so dispatched or when circumstances reasonably indicate an emergency response is required.

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

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

414.4 RESPONSIBILITIES OF RESPONDING INVESTIGATORS

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

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

Investigators not authorized to respond Code-3 shall observe all traffic laws and proceed without the use of emergency lights and siren.

414.6 REQUESTING EMERGENCY ASSISTANCE

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

In any event, where a situation has stabilized and emergency response is not required, the requesting investigator shall immediately notify Dispatch.

414.8 FAILURE OF EMERGENCY EQUIPMENT

If the emergency equipment on the vehicle should fail to operate, the investigator must terminate the Code-3 response and respond accordingly. In all cases, the investigator shall notify Dispatch of the equipment failure so that another unit may be assigned to the emergency response.

**Policy
416**

SUBJECT:

Outside Agency Assistance

416.0 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to investigators in the request of or answering the request for assistance involving another law enforcement agency. It is the policy of this department to provide assistance whenever possible, consistent with the applicable laws of arrest and detention policies of this department, when another law enforcement agency requests assistance with an arrest or detention of any person. This department may also request an outside agency to provide assistance.

416.2 ASSISTING OUTSIDE AGENCIES

Generally, calls for assistance from other agencies are routed to the Chief Investigator's office for approval or Supervising Investigator in her/her absence. When an authorized employee of an outside agency requests the assistance of this department in taking a person into custody, available investigators shall respond and assist in making a lawful arrest. If an investigator receives a request in the field for assistance, that investigator shall notify a supervisor. Arrestees may be temporarily detained by our agency until arrangements for transportation are made by the outside agency. Only in exceptional circumstances will this department provide transportation of arrestees to other county facilities. When such assistance is rendered, a case number will be issued to report action taken by Yuba County District Attorney's Office Personnel.

416.4 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

If assistance is needed from another agency, the employee requesting assistance shall first notify a supervisor of his/her intentions. The handling investigator or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive. The requesting investigator should secure radio frequencies for use by all involved agencies, if possible, so that communication can be coordinated as needed. If necessary, reasonable effort should be taken to provide radio equipment capable of communicating on the assigned frequency to any personnel who do not have compatible radios.

Policy 418	SUBJECT: Search and Seizure
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418.0 PURPOSE AND SCOPE

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

418.2 POLICY

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

418.4 SEARCH PROTOCOL

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

1. Members of this department will strive to conduct searches with dignity and courtesy.
2. Investigators should explain to the person being searched the reason for the search and how the search will be conducted.
3. Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.
4. In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.
5. When the person to be searched is of the opposite sex as the searching investigator, a reasonable effort should be made to summon an investigator of the same sex as the subject to conduct the search. When it is not practicable to summon an investigator of the same sex as the subject, the following guidelines should be followed:
 1. Another investigator or a supervisor should witness the search.
 2. The investigator should not search areas of the body covered by tight-fitting clothing, clothing that could not reasonably conceal a weapon.

418.6 DOCUMENTATION

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

- (a) Reason for the search

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

418.8 REVIEW & APPROVAL

If an investigator determines it necessary to obtain a search and/or arrest warrant, the investigator shall prepare the appropriate documentation and submit the material to the Chief Investigator who will review it in conjunction with an assigned prosecutor or managing attorney. Upon approval, the investigator will seek issuance by a magistrate.

Investigators may assist other agencies in the service of a search warrant, *Steagald* warrant and/ or *Ramey warrant* provided such a warrant has been reviewed by a prosecutor prior to issuance by a magistrate.

In no case shall an investigator participate in the service of a warrant without the prior approval of the Chief Investigator or managing attorney. For the purposes of this section, "management attorney" refers to the District Attorney or Chief Deputy District Attorney.

**Policy
420**

SUBJECT:

**Warrant Service and Operations
Planning**

420.0 PURPOSE AND SCOPE

This policy establishes guidelines for the planning and serving of arrest and search warrants by members of this department. It is understood that this policy cannot address every variable or circumstance that can arise in the service of a search or arrest warrant, as these tasks can involve rapidly evolving and unique circumstances.

This policy is not intended to address the service of search warrants on locations or property already secured.

420.2 POLICY

It is the policy of the Yuba County District Attorney's Office to balance the safety needs of the public, the safety of department members, privacy interests and other relevant factors when making decisions related to the service of search and arrest warrants.

420.4 SUPERVISOR'S RESPONSIBILITY

The Chief Investigator shall review all risk assessment forms with the involved investigator to determine the risk level of the warrant service and coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow department guidelines.

420.6 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The operations director will ensure that cooperative efforts with other agencies in the service of warrants conform to existing mutual aid agreements or other memorandums of understanding and will work cooperatively to mitigate risks including, but not limited to, the following:

- Identity of team members
- Roles and responsibilities
- Familiarity with equipment
- Rules of engagement

Any outside agency requesting assistance in the service of a warrant within this jurisdiction should be referred to the operations director. The director should review and confirm the warrant, including the warrant location, and should discuss the service with the appropriate supervisor from the other agency. The director should ensure that members of the Napa County District Attorney's Office are utilized appropriately. Any concerns regarding the requested use of Napa County District Attorney's Office members should be brought to the attention of the District Attorney or the authorized designee. The actual service of the warrant will remain the responsibility of the agency requesting assistance.

If the operations director is unavailable, the Supervising Investigator should assume this role. If investigators intend to serve a warrant outside Napa County District Attorney's Office jurisdiction, the operations director should provide reasonable advance notice to the applicable agency, request assistance as

needed and work cooperatively on operational planning and the mitigation of risks detailed in this policy.

Investigators will remain subject to the policies of the Napa County District Attorney's Office when assisting outside agencies or serving a warrant outside Napa County District Attorney's Office jurisdiction.

420.8 MEDIA ACCESS

No advance information regarding warrant service operations shall be released without the approval of the District Attorney. Any media inquiries or press release after the fact shall be handled in accordance with the News Media Relations Policy.

420.10 HIGH-RISK WARRANT SERVICE

The Chief Investigator or the authorized designee shall coordinate the service of warrants that are categorized as high risk and shall have sole authority in determining the manner in which the warrant will be served, including the number of investigators deployed.

High-risk operations - Operations that are likely to present higher risks than are commonly faced by investigators on a daily basis, including suspected fortified locations, reasonable risk of violence or confrontation with multiple persons, or reason to suspect that persons anticipate the operation.

The member responsible for directing the service should ensure the following as applicable:

- (a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.
- (b) The warrant service is audio- and video-recorded when practicable and reasonable to do so.
- (c) Evidence is handled and collected only by those members who are designated to do so. All other members involved in the service of the warrant should alert one of the designated members to the presence of potential evidence and not touch or disturb the items.
- (d) Reasonable efforts are made during the search to maintain or restore the condition of the location.
- (e) Persons who are detained as part of the warrant service are handled appropriately under the circumstances.

- (f) Reasonable care provisions are made for children and dependent adults.
- (g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
- (h) A copy of the search warrant is left at the location.
- (i) The condition of the property is documented with video recording or photographs after the search.

420.12 RISK ASSESSMENT

Investigators assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form. When preparing the form, the investigator should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the investigator should also submit information to these resources.

The investigator should gather available information that includes, but is not limited to:

- (a) Photographs, including aerial photographs, if available, of the involved location, neighboring yards and obstacles.
- (b) Maps of the location.
- (c) Diagrams of any property and the interior of any buildings that are involved.
- (d) Historical information about the subject of investigation (e.g., history of weapon possession or use, known mental illness, known drug use, threats against police, gang affiliation, criminal history).
- (e) Historical information about others who may be present at the location (e.g., other criminals, innocent third parties, dependent adults, children, animals).
- (f) Obstacles associated with the location (e.g., fortification, booby traps, reinforced doors/ windows, surveillance measures, number and type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present, information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations).

(g) Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service).

(h) Other available options that may minimize the risk to investigators and others (e.g., making an off-site arrest or detention of the subject of investigation).

420.14 RISK ASSESSMENT REVIEW

Investigators will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director. The supervisor and operations director shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

420.16 HIGH-RISK OPERATIONS

If the operations director, after consultation with the involved supervisor, determines that the operation is high risk, the operations director should:

(a) Determine what resources will be needed at the location and contact and/or place on standby any of the following appropriate and available resources:

1. Additional personnel
2. Outside agency assistance
3. Special equipment
4. Medical personnel
5. Persons trained in negotiation
6. Additional surveillance
7. Canines
8. Evidence Room or analytical personnel to assist with cataloguing seizures
9. Forensic specialists
10. Specialized mapping for larger or complex locations

(b) Contact the appropriate department members or other agencies as warranted to begin preparation.

(c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.

(d) Coordinate the actual operation.

420.18 DECONFLICTION

The investigator who is the operations lead shall determine if there is conflicting law enforcement operations planned or being conducted in close proximity or time to the identified persons and locations associated with the operation. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

420.20 OPERATIONS PLAN

The operations director should ensure that a written operations plan is developed for all high-risk operations. The plan should address such issues as:

- (a) Operation goals, objectives and strategies.
- (b) Operation location and people:
- (c) Information from the risk assessment form by attaching a completed copy in the operational plan.
- (d) Participants and their roles, including how all participants will be identified as law enforcement.
- (e) Whether deconfliction submissions are current and all involved individuals, groups and locations have been deconflicted to the extent reasonably practicable.
- (f) Identification of all communications channels and call-signs.
- (g) Use of force issues.
- (h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).
- (i) Plans for detaining people who are not under arrest.
- (j) Contingencies for handling children, dependent adults, animals and other people who might be at the location.
- (k) Communications plan
- (l) Responsibilities for writing, collecting, reviewing and approving reports.

420.22 OPERATIONS PLAN RETENTION

Since the operations plan contains intelligence information and descriptions of law enforcement tactics, it shall not be filed with the report. The operations plan shall be stored separately and retained.

420.24 OPERATIONS BRIEFING

A briefing should be held prior to the commencement of any high-risk operation to allow all participants to understand the operation, see and identify each other, identify roles and responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

**Policy
422**

SUBJECT:

Custodial Interrogation Guidelines

422.0 AUDIO/VIDEO RECORDINGS

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

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

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

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

422.2 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

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

422.4 MANDATORY RECORDINGS OF MURDER SUSPECTS

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

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

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation took place in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.
- (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an investigator, the individual being interrogated or another individual. Such circumstances shall be documented in a report.
- (f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.
- (g) The questions are part of a routine processing or booking, and are not an interrogation.

These recordings shall be retained until a conviction is final and all direct and habeas corpus appeals are exhausted, a court no longer has any jurisdiction

over the individual or the prosecution for that offense is barred (Penal Code § 859.5; Welfare and Institutions Code § 626.8).

**Policy
424**

SUBJECT:

Portable Audio / Video Recorders

424.0 PURPOSE AND SCOPE

This policy provides guidelines for the use of portable audio/video recording devices by members of this department while in the performance of their duties. Portable audio/video recording devices include all recording systems whether body-worn, hand held or integrated into portable equipment.

This policy does not apply to lawful surreptitious audio/video recording, interception of communications for authorized investigative purposes or to mobile audio/video recordings (see the Investigation and Prosecution and Mobile Audio/Video policies).

424.2 POLICY

The Yuba County District Attorney's Office may provide members with access to portable recorders, either audio or video or both, for use during the performance of their duties. The use of recorders is intended to enhance the mission of the Department by accurately capturing contacts between members of the Department and the public.

424.4 MEMBER PRIVACY EXPECTATION

All recordings made by members acting in their official capacity shall remain the property of the Department regardless of whether those recordings were made

with department-issued or personally owned recorders. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

424.6 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure that he/she is equipped with a portable recorder issued by the Department, and that the recorder is in good working order. If the recorder is not in working order or malfunctions at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as practicable.

Members should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the member deactivated the recording. Members should include the reason for deactivation.

424.8 SUPERVISOR RESPONSIBILITIES

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

424.10 ACTIVATION OF THE PORTABLE RECORDER

Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording.

Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

424.12 SURREPTITIOUS USE OF THE PORTABLE RECORDER

Members of the Department may surreptitiously record any conversation during the course of a criminal investigation in which the member reasonably believes that such a recording will be lawful and beneficial to the investigation (Penal Code § 633).

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the District Attorney or the Chief Deputy District Attorney.

424.14 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member's direct participation in the incident is complete or the situation no longer fits the criteria for activation.

Members shall cease audio recording whenever necessary to ensure conversations are not recorded between a person in custody and the person's attorney, religious advisor or physician, unless there is explicit consent from all parties to the conversation (Penal Code § 636).

424.16 EXPLOSIVE DEVICE

Many portable recorders, including body-worn cameras and audio/video transmitters, emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

424.18 PROHIBITED USE OF PORTABLE RECORDERS

Members are prohibited from using department-issued portable recorders and recording media for personal use and are prohibited from making personal copies of recordings created while on-duty or while acting in their official capacity.

Members are also prohibited from retaining recordings of activities or information obtained while on-duty, whether the recording was created with department-issued or personally owned recorders. Members shall not duplicate or distribute such recordings, except for authorized legitimate department business purposes. All such recordings shall be retained at the Department.

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Supervising Investigator. Any member who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule.

424.20 RETENTION OF RECORDINGS

Any time a member records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the

related case number and transfer the file in accordance with current procedure for storing digital files and document the existence of the recording in the related case report. Transfers should occur at the end of the member's shift, or any time the storage capacity is nearing its limit.

Any time a member reasonably believes a recorded contact may be beneficial in a non-criminal matter (e.g., a hostile contact), the member should promptly notify a supervisor of the existence of the recording.

424.22 RETENTION REQUIREMENTS

All recordings shall be retained for a period consistent with the requirements of the organization's records retention schedule but in no event for a period less than 180 days.

424.24 REVIEW OF RECORDINGS

When preparing written reports, members should review their recordings as a resource. However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

Supervisors are authorized to review relevant recordings any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the member's performance.

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Department who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the District Attorney or the authorized designee.
- (d) In compliance with a public records request, if permitted, and in accordance with the Records Maintenance and Release Policy.

All recordings should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

Policy 426

SUBJECT:

Detentions and Photographing Detainees

426.0 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the taking and retention of photographs of persons detained in the field but not arrested. Due to a variety of situations confronting the investigator, the decision to FI or photograph a field detainee shall be left to the discretion of the involved investigator based on the totality of the circumstances available to them at the time of the detention.

426.2 DEFINITIONS

Detention - Occurs when an investigator intentionally, through words, actions or physical force causes an individual to reasonably believe he/she is being required to restrict his/her movement. Detentions also occur when an investigator actually restrains a person's freedom of movement.

Consensual Encounter - Occurs when an investigator contacts an individual but does not create a detention through words, actions or other means. In other words, a reasonable individual would believe that his/her contact with the investigator is voluntary.

Field Photographs - Field photographs are defined as posed photographs taken of a person during a contact, detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system when persons are not posed for the purpose of photographing are not considered field photographs.

426.4 FIELD PHOTOGRAPHS

Before photographing any field detainee, the investigator shall carefully consider, among other things, the factors listed below.

426.6 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject of the photograph knowingly and voluntarily gives consent. When taking a consensual photograph, the investigator should have the individual read and sign the appropriate form accompanying the photograph.

426.8 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. Mere knowledge or suspicion of gang membership or affiliation is not a sufficient justification for taking a photograph without consent. The investigator must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct.

If, prior to taking a photograph, the investigator's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken. All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

426.10 SUPERVISOR RESPONSIBILITY

While it is recognized that field photographs often become valuable investigative tools, supervisors should monitor such practices in view of the above listed considerations. This is not to imply that supervisor approval is required before each photograph. Access to field photographs shall be strictly limited to law enforcement purposes.

426.12 DISPOSITION OF PHOTOGRAPHS

All detainee photographs must be adequately labeled and submitted to the Supervising Investigator with either an associated FI card or other memorandum explaining the nature of the contact. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

If a photograph is not associated with an investigation where a case number has been issued, the Supervising Investigator should review and forward the photograph to one of the following locations:

(a) If the photo and associated FI or memorandum is relevant to criminal street gang enforcement, the Supervising Investigator will forward the photo and

documents to the Gang Supervisor. The Gang Supervisor will ensure the photograph and supporting documents are retained as prescribed by the Criminal Organizations Policy.

(b) Photographs that do not qualify for Criminal Street Gang file retention or which are not evidence in an investigation with an assigned case number should be forwarded to the Records Section. These photographs will be purged as described in the Purging the Field Photo File subsection of this policy.

When a photograph is taken in association with a particular case, the detective may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs will be kept in the Records Section in a separate non-booking photograph file in alphabetical order.

426.14 PURGING THE FIELD PHOTO FILE

The Supervising Legal Secretary will be responsible for ensuring that photographs maintained by the Records Section that are more than one year old and no longer serve a law enforcement purpose are periodically purged and destroyed. Photographs that continue to serve a legitimate law enforcement purpose may be retained longer than one year provided that a notation of that fact is added to the file for each additional year that they are retained. Access to the FI photo file shall be strictly limited to law enforcement purposes.

A photograph need not be purged but may be retained as an updated photograph in a prior booking file if the person depicted in the photograph has been booked at the Yuba County District Attorney's Office and the booking file remains in the Records Section.

426.16 PHOTO REVIEW POLICY

Any person who has been the subject of a field photograph or an FI by this agency during any contact other than an arrest may file a written request within 30 days of the contact requesting a review of the status of the photograph/FI. The request shall be directed to the office of the District Attorney who will ensure that the status of the photograph or FI is properly reviewed according to this policy as described below. Upon a verbal request, the Department will send a request form to the requesting party along with a copy of this policy.

426.18 REVIEW PROCESS

Upon receipt of such a written request, the District Attorney or his or her designee will permit the individual to appear in person (any minor must be accompanied by their parent or legal guardian) for a review of the status of the photograph/FI.

Such a meeting will generally be scheduled during regular business hours within 30 days of the receipt of the written request. An extension of the 30-day limit may be made either upon the mutual convenience of the parties or if, at the discretion of the District Attorney, there appears to be an ongoing legitimate law enforcement interest which warrants a delay. If the delay could jeopardize an ongoing investigation, nothing in this policy shall require the District Attorney to disclose the reason(s) for the delay.

A meeting for the review of the status of any non-arrest photograph/FI is not intended to be a formal hearing, but simply an informal opportunity for the individual to meet with the District Attorney or his/her designee to discuss the matter.

After carefully considering the information available, the District Attorney or designee will determine, generally within 30 days of the original meeting, whether the photograph/FI was obtained in accordance with existing law and Yuba County District Attorney's Office policy and, even if properly obtained, then whether there is any ongoing legitimate law enforcement interest in retaining the photograph/FI.

If the District Attorney or his/her designee determines that the photograph/FI was obtained in accordance with existing law and department policy and that there is an ongoing legitimate law enforcement interest in retaining the non-arrest photograph, the photograph/FI shall be retained according to this policy and applicable law.

If the District Attorney or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest photograph no longer exists or that it was obtained in violation of existing law or Yuba County District Attorney's Office policy, the original photograph will be destroyed or returned to the person photographed, if requested. All other associated reports or documents, however, will be retained according to department policy and applicable law.

426.20 Double Blind Sequential Photo Line-Up Policy and Procedure

The **investigating** investigator shall assemble the suspect photo and at least five fillers. The fillers should generally fit the eyewitness' description of the perpetrator. The photograph of the suspected perpetrator should, if practicable, resemble his or her appearance at the time of the offense and not unduly stand out. The photos used should not contain any writings or information concerning any previous arrest.

If there are multiple suspects, the investigator will need to assemble a different group of photos using new fillers for each suspect. Arrange the six photos/persons in random order. Numerically mark the front of each photo and record this order.

The Blind Administrator/Investigator, who has no knowledge of the identity of the suspected person, shall present the photo line-up to the witness.

The order of the photographs in the line-up shall be determined by the **investigating** investigator. The investigating investigator **SHALL NOT** reveal the identity of the suspect to the Blind Administrator/Investigator.

The Blind Administrator shall admonish the witness using the designated Yuba County District Attorney's Office Double Blind Sequential Line-Up form using the following instructions:

In a moment, I am going to show you a series of six photos. The person who committed the crime may or may not be included.

- a. Even if you identify someone during the procedure, I will continue show you all the photographs in the series. The investigation will continue whether or not you make an identification.
- b. Keep in mind things like hairstyles, beards, and mustaches can be easily changed and complexions may look slightly different in photographs.
- d. You should not feel you have to make an identification.
- e. It is just as important to exclude innocent persons as it is to identify the perpetrator.
- f. The photos will be shown to you one at a time. Take as much time as you need to look at each one. If you wish see a photograph again, you will be shown all the photos again.
- g. Do you understand these instructions?

Conduct the sequential line-up as follows:

Electronically record the administration of the lineup. The recording shall contain both audio and video of the lineup administration unless video recording is not feasible under the circumstances. In all cases, the lineup administration must be at least audio recorded.

Confirm the witness understands the nature of the sequential procedure in the appropriate section of the Yuba County District Attorney's Office Double Blind Sequential Line Up Identification Form.

Present each photograph to the witness separately in a previously determined order.

After viewing each photograph, have the witness initial the photo.

Remove each photograph before presenting the next one.

If the witness makes an identification or tentative identification, the investigator shall immediately inquire as to the eyewitness' confidence level in the accuracy of the identification and record in writing, verbatim, what the eyewitness says.

Record all results in writing afterwards in a report, including the witness' own words. This should include positive, tentative, and non-identifications. The following shall also be documented:

- a. Identification information and source of all photos used.
- b. Names of all persons present at the photo line-up.
- c. Date and time of procedure.
- d. The results to include, no identifications, tentative identifications and positive identifications.
- e. Obtain a qualitative description if the person is not certain of their identification, i.e. similar or same chin, eyes, etc.
- f. Explanation of why video recording was not feasible if only audio recording was used.

. Ask the witness to complete the Yuba County District Attorney's Office Double Blind Sequential Lineup Identification Form with their name, signature, date and time.

. If there is more than one suspect, the investigating Inspector shall assemble a separate Photo Line-Up for each suspect.

If more than one witness is to view the same line-up, then make sure that the witnesses have been separated from one another during the line-up process so that they cannot communicate with one another.

If more than one witness is to view the same photo line-up, then the investigating investigator shall change the order of the photos in the line-up

array between each witness. This will prevent any possibility of witnesses telling each other which number was picked. Be sure to document this step.

Witnesses should be instructed to avoid discussing the details of the incident or the photo line-up with any other witnesses.

Once the photo line-up and the investigators report are complete, the investigating investigator shall book the original photo line-up, the audio/video recording, the original copy of the Double Blind Sequential Identification Form, Identification Photo Line-up Order Form into evidence as soon as possible.

DOUBLE BLIND SEQUENTIAL *PHYSICAL LINE-UP* POLICY AND PROCEDURE

The investigating investigator shall assemble the suspect physical line-up and at least five fillers in the normal manner.

The investigating investigator shall review the fillers to make sure they are appropriate. Record the identity of the persons in the lineup and the order of the persons and suspect in your report. The investigating investigator SHALL NOT reveal the identity of the suspect to the Blind Administrator/Inspector.

As the Blind Administrator, you shall admonish the witness regarding the following instructions directly from the Double Blind Sequential Line-up Identification Form:

- a. In a moment, I am going to show you a series of six people. The person who committed the crime may or may not be included.
- b. Even if you identify someone during this procedure, I will continue to show you all the people in the line-up. The investigation will continue whether or not you make an identification.
- c. Keep in mind that things like hairstyles, beards and mustaches can be easily changed and that complexion may look slightly different.
- d. You should not feel you have to make an identification.
- e. It is as important to exclude innocent persons, as it is to identify the perpetrator.

- f. Do not discuss your case with other witnesses.
- g. The people will be shown to you one at a time. Take as much time as you need to look at each one. If you wish to see a person again, you will be shown all of the people.
- h. The individuals you will be shown will not be named; they will be assigned numbers. If the suspect in your case is in the lineup, remember their number.
- i. If you wish to have a certain person in the lineup speak, wear a hat, walk rapidly, etc., make this request to the investigator conducting the lineup, and all of the people in the lineup will be asked to do the same thing. No person in the lineup will be singled out to speak or perform.
- j. Do you understand these instructions?

Conduct the sequential physical line-up as follows:

- a. Electronically record the administration of the lineup. The recording shall contain both audio and video of the lineup administration unless video recording is not feasible under the circumstances. In all cases, the lineup administration must be at least audio recorded.
- b. Confirm that the witness understands the nature of the sequential procedure and have them sign the Yuba County District Attorney's Office Double Blind Sequential Line-up Identification Form.
- c. Present each person to the witness separately in the previously determined order.
- d. The witness(s) shall view only one person at a time. Remove each person before presenting the next one.

Post line-up identification procedure:

- a. If the witness identifies a suspect, have the witness place an "X" in the corresponding box with the suspect in the Physical Line-up on the Yuba County District Attorney's Office Double Blind Sequential Lineup Identification Form.
- b. If no suspect is identified, the witness should NOT mark the sheet.

- c. If the witness believes the suspect was present but was tentative, the witness should mark the corresponding box with a question mark.

Record all results in writing, including the witness' own words. This should include positive, tentative and non-identifications.

- a. In cases of a tentative or positive identification, ask why the witness believes the person selected is or may be the suspect. Obtain a qualitative description if the person is not certain of their identification, i.e. similar or same chin, eyes etc.
- b. Explanation of why video recording was not feasible if only audio recording was used.

Ask the witness to sign and date the results of the Physical Lineup using Yuba County Double Blind Sequential Lineup Identification Form.

Document, in writing, the physical line-up procedure, including:

- a. Identification information for all the fillers shall be documented.
- b. Names of all persons present in the audience at the Line-up.
- c. Date and time of the line-up.
- d. Any identifications.

If more than one witness is to view the same physical line-up, then make sure that the witnesses have been separated from one another during the physical line-up process so that they cannot communicate with one another. In situations where more than one witness will be viewing the same physical lineup at the same time, the witnesses should be instructed to not say or do anything that may influence other witnesses present.

Witnesses should be instructed to avoid discussing the details of the incident or the physical line-up with any other witnesses.

Once the physical line-up and the investigative report are complete, the investigating investigator shall book the video recording, the original copy of the Double Blind Sequential Identification Form, Physical Line-up Order Form, and recording into evidence as soon as possible.

Policy 428	SUBJECT: Immigration Violations
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428.0 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Yuba County District Attorney's Office for investigating and enforcing immigration laws.

428.2 POLICY

It is the policy of the Yuba County District Attorney's Office that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their immigration status.

428.4 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/ or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, color or national origin in any way that would violate the United States or California Constitutions.

428.6 ICE REQUEST FOR ASSISTANCE

Requests by ICE, or any other federal agency, for assistance from this department should be directed to the Chief Investigator or Chief Deputy District

Attorney. Members of this department should not participate in such federal operations as part of any detention team unless it is in direct response to a request for assistance for officer safety. Any detention by a member of this department should be based upon the reasonable belief that an individual is involved in criminal activity.

428.8 ENFORCEMENT

An investigator should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant.

428.10 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373):

1. Sending information to, or requesting or receiving such information from ICE
2. Maintaining such information in department records
3. Exchanging such information with any other federal, state or local government entity

428.12 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)). A law enforcement certification for a U visa may be completed by an investigator in order for a U visa to be issued. Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)). A law enforcement declaration for a T visa may be completed by an investigator in order for a T visa to be issued.

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Chief Investigator, who shall:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.

(d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

(e) Inform Yuba County Victim Services of any requests and their status.

Policy 430	SUBJECT: Private Persons Arrests
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430.0 PURPOSE AND SCOPE

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

430.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Although District Attorney Investigators are not first responders they may encounter a situation in which a private person arrest is necessary.

Penal Code § 836(b) expressly mandates that all investigators shall advise victims of domestic violence of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all other situations, investigators should use sound discretion in determining whether or not to advise an individual of the arrest process.

- (a) When advising any individual regarding the right to make a private person's arrest, investigators should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.
- (b) Private individuals should be discouraged from using force to effect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

430.4 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

- (a) For a public offense committed or attempted in his or her presence;
- (b) When the person arrested has committed a felony, although not in his or her presence;
- (c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

Unlike peace officers, private persons may not make an arrest on suspicion that a felony has been committed - the felony must in fact have taken place.

430.6 INVESTIGATOR RESPONSIBILITIES

Any investigator presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

- (a) Should any investigator determine that there is no reasonable cause to believe that a private person's arrest is lawful, the investigator should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.
 - 1. Any investigator who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b)(1). The investigator must include the basis of such a determination in a related report.
 - 2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the investigator, the investigator should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.
- (b) Whenever an investigator determines that there is reasonable cause to believe that a private person's arrest is lawful, the investigator may exercise any of the following options:
 - 1. Take the individual into physical custody for booking
 - 2. Release the individual pursuant to a Notice to Appear
 - 3. Release the individual pursuant to Penal Code § 849

430.8 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a Private Person's Arrest form under penalty of perjury. In addition to the Private Person's Arrest Form (and any other related documents such as citations, booking forms, etc.), investigators shall complete a narrative report regarding the circumstances and disposition of the incident.

Policy 432	SUBJECT: Public Recording of Law Enforcement Activity
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432.0 PURPOSE AND SCOPE

This policy provides guidelines for handling situations in which members of the public photograph or audio/video record law enforcement actions and other public activities that involve members of this department. In addition, this policy provides guidelines for situations where the recordings may be evidence.

432.2 POLICY

The Yuba County District Attorney's Office recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully.

Investigators should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

432.4 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

- (a) Recordings may be made from any public place or any private property where the individual has the legal right to be present (Penal Code § 69; Penal Code § 148).
- (b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:
 - 1. Tampering with a witness or suspect.
 - 2. Inciting others to violate the law.
 - 3. Being so close to the activity as to present a clear safety hazard to the investigators.
 - 4. Being so close to the activity as to interfere with an investigator's effective communication with a suspect or witness.
- (c) The individual may not present an undue safety risk to the investigators, him/herself or others.

432.6 INVESTIGATOR RESPONSE

Investigators should promptly request that a supervisor respond to the scene whenever it appears that anyone recording activities may be interfering with an investigation or it is believed that the recording may be evidence. If practicable, investigators should wait for a supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, investigators or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an investigator could advise the person that he/she may continue observing and recording from the sidewalk across the street.

When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior. When practical, the encounter should be recorded.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, investigators shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

432.8 SEIZING RECORDINGS AS EVIDENCE

Investigators should not seize recording devices or media unless (42 USC § 2000aa):

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
 - 1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
 - 1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.
 - 2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

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

**Policy
434**

SUBJECT:

Subpoenas and Court Appearances

434.0 PURPOSE AND SCOPE

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

434.2 POLICY

Yuba County District Attorney's Office members will respond appropriately to all subpoenas and any other court-ordered appearances. Investigators will regard themselves as officers of the court, and should treat persons in the court process with courtesy and respect.

Investigators will be punctual in attending any court proceeding and will appear dressed in a manner described by policy. Personnel will be properly prepared for testimony and to present property to be used as evidence. Personnel will testify with the strictest accuracy and will answer with the same readiness and civility for the defense as the prosecution.

434.4 SUBPOENAS

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

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

An immediate supervisor or authorized individual may refuse to accept service for a criminal subpoena if (Penal Code § 1328(d)(e)):

- (a) He/she knows that he/she will be unable to deliver a copy of the subpoena to the named investigator within sufficient time for the named investigator to comply with the subpoena.
- (b) It is less than five working days prior to the date listed for an appearance and he/she is not reasonably certain that service can be completed.

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

434.6 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the County Counsel or the prosecutor shall notify his/her immediate supervisor without delay regarding:

- (a) Any civil case where the County or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Yuba County District Attorney's Office.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Yuba County District Attorney's Office.

The supervisor will then notify the Chief Deputy District Attorney and the appropriate prosecuting attorney as may be indicated by the case.

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

434.8 CIVIL SUBPOENA

The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current memorandum of understanding or collective bargaining agreement.

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

434.10 OFF-DUTY RELATED SUBPOENAS

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

4334.12 FAILURE TO APPEAR

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

**Policy
436**

SUBJECT:

Report Preparation

436.0 PURPOSE AND SCOPE

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

436.2 REPORT PREPARATION

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

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

436.4 REQUIRED REPORTING

Written reports are required in all of the following situations.

436.6 CRIMINAL ACTIVITY

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

- (a) All arrests
- (b) All felony crimes
- (c) Non-Felony incidents involving threats or stalking behavior
- (d) Situations covered by separate policy. These include:
 - 1. Use of Force Policy
 - 2. Child Abuse Policy
 - 3. Adult Abuse Policy

436.8 NON-CRIMINAL ACTIVITY

The following incidents shall be documented:

- (a) Anytime an investigator points a firearm at any person
- (b) Any use of force against any person by a member of this department (see the Use of Force Policy)
- (c) Any firearm discharge (see the Firearms Policy)
- (d) Anytime a person is reported missing, regardless of jurisdiction
- (e) Any found property or found evidence
- (f) Any traffic collisions subject to County reporting
- (g) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy
- (h) All protective custody detentions
- (i) All Civil Code good cause reports
- (j) Suspicious incidents that may place the public or others at risk
- (k) Whenever the employee believes the circumstances should be documented or at the direction of a supervisor

436.10 INJURY OR DAMAGE BY COUNTY PERSONNEL

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

436.12 MANDATORY REPORTING OF JUVENILE GUNSHOT INJURIES

A report shall be taken when any incident in which a child 18 years or younger suffered an unintentional or self-inflicted gunshot wound. The Records Section shall notify the California Department of Public Health (CDPH) of the incident, on a form provided by the state. Forms may be obtained from the CDPH website (Penal Code § 23685).

436.14 GENERAL POLICY OF EXPEDITIOUS REPORTING

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

436.16 REPORT CHANGES OR ALTERATIONS

Reports that have been submitted for filing and distribution shall not be modified or altered except by way of a supplemental report. The Chief Investigator shall be advised of reports requiring correction or modification prior to submittal for filing distribution.

**Policy
438**

SUBJECT:

Off-Duty Law Enforcement Actions

438.0 PURPOSE AND SCOPE

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

438.2 POLICY

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

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

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

438.4 FIREARMS

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

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

438.6 DECISION TO INTERVENE

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

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

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

438.8 INTERVENTION PROCEDURE

If involvement is reasonably necessary the investigator should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher

should be informed that an off-duty investigator is on-scene and should be provided a description of the officer if possible.

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

438.10 INCIDENTS OF PERSONAL INTEREST

Investigators should refrain from handling incidents of personal interest, (e.g., family or neighbor disputes) and should remain neutral. In such circumstances investigators should call the responsible agency to handle the matter.

438.12 REPORTING

Any off-duty investigator who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Chief Investigator as soon as practicable. The Chief Investigator shall determine whether a report should be filed by the employee.

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

Yuba County District Attorney's Office
Investigative Services Policy Manual

CHAPTER 5 – SPECIAL INVESTIGATIONS

Policy 500

SUBJECT:

Adult Sexual Assault Investigations

500.0 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Adult Abuse policies.

500.2 DEFINITIONS

Definitions related to this policy include:

Sexual assault - Any crime or attempted crime of a sexual nature, to include, but not limited to, offenses defined in Penal Code § 243.4, Penal Code § 261 et seq., and Penal Code § 285 et seq.

Sexual Assault Response Team (SART) - A multidisciplinary team generally comprised of advocates, law enforcement officers, forensic medical examiners, including sexual assault nurse examiners (SANEs) if possible, forensic laboratory personnel and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

500.4 POLICY

It is the policy of the Yuba County District Attorney's Office that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

500.6 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

- (a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
- (e) Provide referrals to Yuba County Victim Services for the victim.
- (f) Participate in or coordinate with SART.

500.8 INVESTIGATION AND REPORTING

All reported or suspected cases of sexual assault should be assigned for follow-up investigation and subsequent reporting.

500.10 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, an initial interview should be conducted by a qualified investigator, and a member of SART should be included in the initial victim interviews when practical. An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes,

bathing). The follow-up interview may be delayed to the following day based upon the circumstances.

If the responding investigator has reason to believe the incident may be without merit, he/she should document the evidence and inconsistencies. No opinions of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (42 USC § 3796gg-8; Penal Code § 637.4).

500.12 VICTIM RIGHTS

Victims should be apprised of applicable victim's rights provisions, as established in the Penal Code, including the following:

- (a) Immediately refer the victim to Yuba County Victim Services for support and counseling services.
- (b) Advise the victim of the right to have a victim advocate and a support person present at any interview by law enforcement as provided in Penal Code § 679.04.
- (c) Prior to any forensic examination the assigned investigator shall ensure that the victim has been properly informed of his/her right to have a sexual assault victim counselor and at least one other support person present (Penal Code § 264.2(b)(2)).
- (d) A support person may be excluded from the examination by the investigator or the medical provider if his/her presence would be detrimental to the purpose of the examination (Penal Code § 264.2(b)(4)).

500.14 VICTIM CONFIDENTIALITY

Investigators shall ensure that the victim, or the victim's parent or guardian if the victim is a minor, has been informed that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting investigator shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code § 293).

Except as authorized by law, members of this department shall not publicly disclose the name or address of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

500.16 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

A SART member should be involved in the collection of forensic evidence from the victim when the facts of the case indicate that collection of biological evidence is warranted.

If a drug-facilitated sexual assault is suspected, it is critical to the investigation that a urine sample from the victim be collected by a medical professional.

Subject to available resources and other law enforcement considerations which may affect the ability to process and analyze physical evidence and/or rape kits, any member of this department assigned to investigate a sexual assault offense should take every reasonable step to ensure that the evidence is submitted to the Department of Justice and DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 680 and § 803(g).

If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned investigator shall ensure that the primary investigating agency provides notification to the victim of such fact in writing no less than 60 days prior to the expiration of the 18 month period (Penal Code § 680(d)).

500.18 VICTIM NOTIFICATION OF DNA STATUS

- (a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, the assigned investigator may inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).
 - 1. Although such information may be communicated orally, the assigned investigator should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
 - 2. Absent a written request, no member of this department is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.
- (b) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights (Penal Code § 680):
 - 1. To be informed if a DNA profile of the assailant was obtained from the testing of the rape kit or other crime scene evidence from their case.
 - 2. To be informed if there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.

3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the Department of Justice Databank of case evidence.
- (c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned investigator informed with regard to current address, telephone number and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).
1. Although such information may be communicated orally, the assigned investigator should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
 2. No investigator shall be required or expected to release any information which might impede or compromise any ongoing investigation.

500.20 DESTRUCTION OF EVIDENCE

Any destruction of evidence related to a sexual assault shall occur only after victim notification is made as required pursuant to Penal Code § 680 and only in compliance with the Property and Evidence Policy.

500.22 DISPOSITION OF CASES

Classification of a sexual assault case as unfounded requires the assigned investigator to determine, and the assigned prosecutor to concur, that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported.

500.24 RELEASING INFORMATION TO THE PUBLIC

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Chief Investigator should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

500.26 TRAINING

Qualified investigators who should receive advanced training on topics including, but not limited to, the following:

1. Interviewing sexual assault victims

2. SART
3. Medical and legal aspects of sexual assault investigations
4. Serial crimes investigations
5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP)

Policy 502	SUBJECT: Adult Abuse
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502.0 PURPOSE AND SCOPE

The Yuba County District Attorney's Office will ensure that all reported incidents of alleged adult abuse are forwarded to the responsible law enforcement agency for investigation and that proper reporting and notification as required by law is made.

The purpose of this policy is to address provide guidelines for both the investigation and mandatory reporting of suspected abuse of certain adults as required by law.

502.2 DEFINITIONS

Definitions related to this policy include:

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

502.4 MANDATORY NOTIFICATION

Members of the Yuba County District Attorney's Office shall notify the local office of the California Department of Social Services (CDSS) Adult Protective Services (APS) agency when they reasonably suspect, have observed or have knowledge

of an incident that reasonably appears to be abuse of an elder (age 65 or older) or dependent adult, or are told by an elder or dependent adult that he/she has experienced abuse (Welfare and Institutions Code § 15630(b)).

Notification shall be made by telephone as soon as practicable and a written report shall be provided within two working days as provided in Welfare and Institutions Code § 15630(b)(c)).

A dependent adult is an individual, between 18 and 64 years of age, who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This also includes those admitted as inpatients to a 24-hour health facility, as defined in state law (Welfare and Institutions Code § 15610.23).

For purposes of notification, abuse is physical abuse, abandonment, abduction, isolation, financial abuse or neglect as further defined in the Welfare and Institutions Code.

If during an investigation it is determined that the adult abuse is being committed by a licensed health practitioner as identified in Welfare and Institutions Code 15640(b), the appropriate licensing agency shall be immediately notified (Welfare and Institutions Code 15640(b)).

When the Department receives a report of abuse, neglect or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, the licensing agency shall be notified by telephone as soon as practicable (Welfare and Institutions Code § 15640(e)).

The Chief Investigator is responsible for ensuring that proper notifications have occurred to any regulatory agency that may be applicable based upon where the abuse took place (e.g., care facility, hospital) per Welfare and Institutions Code § 15630(b).

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

502.6 MEDICAL EXAMINATIONS

When an adult abuse investigation requires a medical examination, the investigating investigator should obtain consent for such examination from the victim, guardian, agency or entity having legal custody of the adult. The

investigator should also coordinate for the adult's transportation to the appropriate medical facility.

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

Policy 504	SUBJECT: Child Abuse
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504.0 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse.

This policy also addresses when Yuba County District Attorney's Office members are required to notify the county Child Protective Services (CPS) of suspected child abuse.

504.2 DEFINITIONS

Definitions related to this policy include:

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

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

504.4 POLICY

The Yuba County District Attorney's Office will investigate all reported incidents of alleged criminal child abuse and ensure CPS is notified as required by law. Notification pursuant to Penal Code § 11166 is mandatory.

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority (Penal Code 11166.1; Penal Code 11166.2).

For purposes of notification, child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by the reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.

504.6 QUALIFIED INVESTIGATORS

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

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

504.8 INVESTIGATIONS AND REPORTING

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

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

- (a) The overall basis for the contact. This should be done by the investigating investigator in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if investigators interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

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

504.10 PROTECTIVE CUSTODY

Generally, taking any child into protective custody and removal of a child from his/her family, guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Members of this department should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child in the following circumstances:

- (a) The investigator reasonably believes the child is a person described in Welfare and Institutions Code § 300, and further has good cause to believe that any of the following conditions exist:
1. The child has an immediate need for medical care.
 2. The child is in immediate danger of physical or sexual abuse.
 3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the investigator shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.
- (b) The investigator reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:
1. It reasonably appears to the investigator that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
 2. There is no lawful custodian available to take custody of the child.
 3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
 4. The child is an abducted child.
- (c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 or Penal Code § 278.5.

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

Whenever practicable, the investigator should inform the Chief Investigator of the circumstances prior to taking a child into protective custody. The investigator should take reasonable steps to deliver the child to CPS. If this is not an option, the investigator should deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction.

504.12 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, investigators should record the preliminary interview with suspected child abuse victims. Investigators should avoid multiple interviews with a child victim and should attempt to gather only the

information necessary to begin an investigation. When practicable, investigating investigators should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

504.14 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

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

(a) Exigent circumstances exist, such as:

1. A reasonable belief that medical issues of the child need to be addressed immediately.
2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.

(b) A court order or warrant has been issued.

504.16 INTERVIEWS AT A SCHOOL

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

504.18 MEDICAL EXAMINATIONS

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

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

notified supervisor should consider obtaining a court order for such an examination.

504.20 RELEASE OF REPORTS

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

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

Any person whose name has been forwarded to the California Department of Justice (DOJ) for placement in California's CACI, as a result of an investigation, may request that his/her name be removed from the CACI list. Requests shall not qualify for consideration if there is an active investigation or filed case.

504.24 CACI HEARING OFFICER

The Chief Investigator will normally serve as the hearing officer. In the event the Chief is actively connected with the case that resulted in the person's name being submitted to CACI, the Chief Deputy District Attorney will serve as the hearing officer.

Upon receiving a qualified request for removal, the hearing officer shall promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

504.26 CACI HEARING PROCEDURES

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

The person requesting the hearing may record the hearing at his/her own expense. Formal rules of evidence will not apply and the hearing officer may consider, in addition to evidence submitted by the person requesting the hearing, any relevant information including, but not limited to, the following:

- (a) Case reports including any supplemental reports
- (b) Statements by investigators
- (c) Statements from representatives of the District Attorney's Office

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

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

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

504.28 CHILD DEATH REVIEW TEAM

This department will participate in any interagency child death review team and cooperate with any interagency investigation (Penal Code § 11174.32).

**Policy
506**

SUBJECT:

Computers and Digital Evidence

506.0 COMPUTERS AND DIGITAL EVIDENCE

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

506.2 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

Use of social media and any other Internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties.

Information gathered via the Internet should only be accessed by members while on-duty and for purposes related to the mission of this department. If a member encounters information relevant to a criminal investigation while off-duty or while using his/her own equipment, the member should note the dates, times and

locations of the information and report the discovery to his/her supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment.

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

506.4 ACCESS RESTRICTIONS

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

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

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

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

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

506.6 INTERCEPTING ELECTRONIC COMMUNICATION

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

506.8 CELLULAR COMMUNICATIONS INTERCEPTION TECHNOLOGY

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

(a) Security procedures are developed to protect information gathered by the technology.

(b) A usage and privacy policy is developed that includes:

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

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

Yuba County District Attorney's Office
Investigative Services Policy Manual

CHAPTER 6 – EQUIPMENT

Policy 600	SUBJECT: Department Owned and Personal Property
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600.0 PURPOSE AND SCOPE

Office employees are expected to properly care for department property assigned or entrusted to them. Employees may also suffer occasional loss or damage to personal or office property while performing their assigned duty. Certain procedures are required depending on the loss and ownership of the item.

600.2 CARE OF DEPARTMENTAL PROPERTY

Employees shall be responsible for the safekeeping, serviceable condition, proper care, use and replacement of office property assigned or entrusted to them. An employee's intentional or negligent abuse or misuse of office property may lead to discipline including, but not limited to the cost of repair or replacement.

- (a) Employees shall promptly report through their chain of command, any loss, damage to, or serviceable condition of any office issued property or equipment assigned for their use.
- (b) The use of damaged or serviceable office property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, office property shall only be used by those to whom it was assigned. Use should be limited to official purposes and in the capacity for which it was designed.
- (d) Office property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event that any office property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

600.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Investigators and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

- (a) A verbal report shall be made to the Chief Investigator as soon as circumstances permit.
- (b) A written report shall be submitted before the employee goes off duty or within the time frame directed by the Chief Investigator. The report should be in the form of a memorandum to include pertinent information and photos if available.

600.6 DAMAGE BY PERSON OF ANOTHER AGENCY

If employees of another jurisdiction cause damage to real or personal property belonging to the County, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit.

The employee shall submit a written report before going off duty or as otherwise directed by the supervisor. The report should be in the form of a memorandum. These written reports shall promptly be forwarded to the District Attorney.

**Policy
602**

SUBJECT:

**Issuance and Carrying of
Equipment**

602.0 ISSUED EQUIPMENT

Sworn peace officers employed by the Yuba County District Attorney's Office will be issued a variety of equipment to be used in the performance of their duties. This equipment includes:

1. Glock 22C Handgun
2. Holster
3. Duty Belt
4. Handcuffs
5. Handcuff Case
6. Keepers (4)
7. OC Spray

8. OC Spray Holder
9. Flashlight
10. Flashlight Holder
11. Baton
12. Baton Holder
13. Magazines
14. Magazine Pouch
15. Portable Radio
16. Radio Holder
17. Digital Voice Recorder
18. Digital Camera
19. Smartphone
20. Plain Clothes Holster
21. Plain Clothes Magazine Pouch
22. Plain Clothes Cuff Pouch
23. Tactical Vest
24. Ballistic Vest
25. Marked Jacket

602.2 PURCHASE OR RETURN OF SAFETY EQUIPMENT

An employee who terminates his/her employment for any reason who has been issued safety equipment by the County shall promptly return all such equipment to the County.

An employee who has been issued safety equipment by the County who is subsequently promoted demoted or transferred to any position requiring less safety equipment shall promptly return to the County all safety equipment items not required of the new position.

602.4 ARMED WHILE ON DUTY

Yuba County District Attorney's Office Investigators are sworn peace officers pursuant to California Penal Code § 830.1(a) and as such, shall be armed while on duty, except as prohibited by law or precluded by clear operational necessity. For purposes of this policy "on duty" is defined as the inclusive time beginning when an Investigator starts his/her shift to the time that the shift is over. This

includes overtime and assignments resulting in being called back to work such as law enforcement involved fatal incident investigations.

Armed is defined as wearing a duty weapon in a holster on your person (not in a purse or other similar carrier) and in the case of a Supervising Investigator or Investigator, having at least one additional loaded magazine on or about your immediate person.

Investigators may openly carry firearms if, in the judgment of the investigator, safety or operational effectiveness will be enhanced or if the firearm's visibility to others is situationally proper. If an investigator determines it is appropriate to openly wear a firearm in public view, the investigator shall also openly display his/her official DA Investigator badge (or other law enforcement badge if assigned from another agency) on a belt clip or other appropriate device.

602.6 BADGE AND PHOTO ID CARD

Investigators shall carry their Office Photo identification card and badge on their immediate person while on duty unless precluded by clear operational necessity.

602.8 SUPPLYING IDENTIFICATION

Consistent with officer safety and assignment integrity, Investigative Services personnel, while acting in an official capacity, will supply their name and title in a professional manner to any person who may inquire. Likewise, personnel will display their badge and/or identification card upon demand.

602.10 ISSUANCE OF BODY ARMOR

The Chief Investigator shall ensure that body armor is issued to all investigators when the investigator begins service at the Yuba County District Attorney's Office and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Chief Investigator shall establish a body armor replacement schedule and ensure that replacement body armor is issued pursuant to the schedule or whenever the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

602.12 USE OF SOFT BODY ARMOR

Generally, the use of body armor is required subject to the following:

- (a) Investigators shall only wear agency-approved body armor.
- (b) Investigators shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.

- (c) Investigators may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
- (d) Body armor shall be worn when an investigator is taking part in Department range training.
- (e) An investigator may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

602.14 INSPECTIONS OF BODY ARMOR

The Chief Investigator should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by the Chief Investigator for fit, cleanliness, and signs of damage, abuse and wear.

602.16 FIREARMS AMMUNITION

Investigators will be issued factory loaded duty ammunition for their firearms. Duty ammunition will be reissued at the discretion of Chief Investigator. Only Office issued ammunition shall be carried in the duty weapon.

602.18 EQUIPMENT FOR PLANNED FIELD OPERATIONS

During planned law enforcement field operations such as the service of arrest warrants, search warrant service on a suspect's residence, parole searches, etc. Investigators shall wear their issued department jacket with agency markings, body armor and have their pistol, handcuffs, spare loaded magazines, OC, portable radio and cell phone on their person (unless there is a clear operational necessity that dictates otherwise and is pre-approved by a supervisor).

602.20 EQUIPMENT FOR GENERAL FIELD WORK

During general field work, Investigators shall take with them and have available their body armor, handcuffs, OC or baton, portable radio and cell phone.

**Policy
604****SUBJECT:****Personal Communication Devices****604.0 PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines for the use of mobile telephones and communication devices, whether issued or funded by the Department or personally owned, while on-duty or when used for authorized work-related purposes.

This policy generically refers to all such devices as Personal Communication Devices (PCDs) but is intended to include all mobile telephones, personal digital assistants (PDAs), wireless capable tablets and similar wireless two-way communications and/or portable Internet access devices. PCD use includes, but is not limited to, placing and receiving calls, text messaging, blogging and microblogging, emailing, using video or camera features, playing games and accessing sites or services on the Internet.

604.2 POLICY

The Yuba County District Attorney's Office allows members to utilize department-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Department, will be subject to monitoring and inspection consistent with the standards set forth in this policy.

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable public records laws. Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

604.4 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to any communication accessed, transmitted, received or reviewed on any PCD issued or funded by the Department/Office and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities.

604.6 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

No member is authorized to be the sole possessor of a department-issued PCD. Department issued PCDs can be retrieved, reassigned, accessed or used by any member as directed by a supervisor without notice. Member use of a department-issued PCD and use of a personal PCD at work or for work-related business constitutes specific consent for access for department purposes. Prior to conducting an administrative search of a PCD, supervisors should consult legal counsel to ensure access is consistent with CalECPA (Penal Code § 1546; Penal Code § 1546.1).

604.8 PERSONALLY OWNED PCD

Members may carry a personally owned PCD while on-duty, subject to the following conditions and limitations:

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.

- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.
- (d) Members who use personally owned PCDs for work-related purposes will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any department business-related communication or business-related information, including photographs, and video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Department.
- (e) Use of a personally owned PCD while at work or for work-related business constitutes consent for the Department to access the PCD to inspect and copy data to meet the needs of the Department, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Department with the telephone number of the device.
- (f) All evidence-related documents, emails, photographs, recordings or other records created or received on a member's personally owned PCD should be transferred to the member's computer for storage as soon as reasonably practicable.

Policy 606	SUBJECT: Vehicle Use and Maintenance
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606.0 PURPOSE AND SCOPE

The purpose of this policy is to establish a system of accountability to ensure department vehicles are used appropriately. This policy provides guidelines for on- and off-duty use of department vehicles and shall not be construed to create or imply any contractual obligation by the County of Yuba to provide an assigned vehicle.

606.2 POLICY

The Yuba County District Attorney's Office provides vehicles for department-related business and may assign vehicles based on a determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations.

606.4 TRANSPORTING PERSONS IN COUNTY VEHICLES

Members operating department vehicles shall not permit persons other than County personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle. Non county employees shall be transported in county vehicles only as a necessity for conducting office business or in the case of an emergency.

606.6 TRANSPORTING CHILDREN

Absent extraordinary circumstances, children shall not be transported in a department vehicle. In the event a child must be transported, a proper child safety seat must be used.

606.8 WEARING OF SAFETY RESTRAINTS

All members shall wear properly adjusted safety restraints when operating or riding in a seat equipped with restraints, in any County while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall ensure that all other occupants, including non-members, are also properly restrained.

Exceptions to the requirement to wear safety restraints may be made only in exceptional situations where, due to unusual circumstances, wearing a seat belt would endanger the member or the public. Members must be prepared to justify any deviation from this requirement.

606.10 USE OF EMERGENCY EQUIPMENT

Vehicles with emergency response equipment (red lights and siren) shall be operated with that equipment activated only by a peace officer. All other office employees shall not operate or utilize a red light or siren unless expressly authorized in an emergency by a supervisor or law enforcement officer.

Under no circumstances should a vehicle be operated "Code 3" (Emergency Response) with anyone in the car other than on duty Yuba County Employees or authorized Peace Officers from another agency.

606.12 SECURITY AND UNATTENDED VEHICLES

Unattended vehicles should be locked and secured at all times. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging). Investigators who exit a vehicle rapidly in an emergency situation or to engage in a foot pursuit must carefully balance the need to exit the vehicle quickly with the need to secure the vehicle.

Members shall ensure all weapons are secured per California statutory law while the vehicle is unattended.

606.14 DAMAGE, ABUSE AND MISUSE

Vehicles shall be operated in a safe manner and in accordance with the laws of the State of California and applicable County and municipal codes and ordinances.

Operation of any County vehicle while under the influence of alcoholic beverages, drugs, prescribed medications or while otherwise impaired is expressly prohibited.

Smoking is prohibited in all assigned vehicles.

When any department vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify the Chief Investigator. Any traffic collision report shall be filed with the agency having jurisdiction.

Damage to any department vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and forwarded to the Chief Investigator. An administrative investigation may be initiated to determine if there has been any vehicle abuse or misuse.

Investigators operating County vehicles shall be familiar with the County procedures established for vehicle collisions, emergency repair, mileage reporting, and vehicle fueling.

606.16 VEHICLE MAINTENANCE

Employees are responsible for assisting in maintaining Department vehicles so that they are properly equipped, properly maintained, properly refueled and present a clean appearance.

606.18 DAMAGE OR POOR PERFORMANCE

Vehicles that may have been damaged, or perform poorly shall be removed from service for inspections and repairs as soon as practicable.

606.20 SEVERE USE

Vehicles operated under severe-use conditions, which include operations for which the vehicle is not designed or that exceed the manufacturer's parameters, should be removed from service and subjected to a safety inspection as soon as practicable. Such conditions may include rough roadway or off-road driving, hard or extended braking, pursuits or prolonged high-speed operation.

606.22 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle and properly secured prior to the vehicle being released for maintenance, service or repair. Non-sworn members using unmarked emergency vehicles shall ensure that all weapons have been removed before going into service.

606.24 TRANSPORTATION SEARCHES

An investigator should conduct a custody search of an individual immediately before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an investigator of the same sex as the person being searched. If an investigator of the same sex is not reasonably available, a witnessing investigator should be present during the search.

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

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CHAPTER 7 – SUPPORT SERVICES

Policy 700	SUBJECT: Property and Evidence
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700.0 PURPOSE AND SCOPE

This policy provides for the proper collection, storage, and security of evidence and other property. Additionally, this policy provides for the protection of the chain of evidence and those persons authorized to remove and/or destroy property.

700.2 DEFINITIONS

Evidence - Includes items taken or recovered in the course of an investigation that may be used in the prosecution of a case. This includes photographs and latent fingerprints.

700.4 PROPERTY BOOKING PROCEDURE

All seized evidence must be booked prior to the employee going off-duty unless otherwise approved by a supervisor.

700.6 PROPERTY HANDLING

Investigative Services personnel are responsible for preserving the evidentiary integrity of any item coming into DA custody for presentation in court, and ensuring that the item is returned promptly to the seizing agency's custody with an intact chain of custody.

The large safe is the designated temporary storage facility for evidence items coming into DA custody. Items too large for the safe shall be temporarily stored in the "life case" file storage room. No evidence shall be left in an unsecured fashion so as to be accessible to any unauthorized person.

Firearms and controlled substances shall be secured in the safe for limited time periods, not to exceed 24 hours.

No body fluid evidence, flammable or explosive materials except limited amounts of fixed ammunition shall be secured in the evidence safe or large storage room.

700.8 PROPERTY CONTROL

Investigators desiring property for court shall contact the property officer of the seizing or storing agency at least one day prior to the court day.

Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

700.10 SCHEDULED INVENTORY

The Chief Investigator, or another Investigator assigned by the Chief Investigator, will complete an evidence system inventory in January and July of each year. Items that can be returned to the seizing agency shall be done so promptly

Policy 702	SUBJECT: Protected Information
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702.0 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Yuba County District Attorney's Office.

This policy addresses the protected information that is used in the day-to-day operation of the Department and not public record information.

702.2 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data that is collected, stored or accessed by members of the Yuba County District Attorney's Office and is subject to any access or release restrictions imposed by law, regulation, order or use agreement. This includes all information contained in federal, state or local law enforcement databases that is not accessible to the public.

702.4 POLICY

Members of the Yuba County District Attorney's Office will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

702.6 RESPONSIBILITIES

The District Attorney shall select a member of the Department to act as the Criminal Record Security Officer and coordinate the use of protected information. The responsibilities of this position include, but are not limited to:

- (a) Ensuring member compliance with this policy and with requirements applicable to protected information, including requirements for the National Crime Information Center (NCIC) system, National Law Enforcement Telecommunications System (NLETS), Department of Motor Vehicle (DMV) records, the California Law Enforcement Telecommunications System (CLETS), and the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (b) Developing procedures to ensure training and certification requirements are met.
- (c) Resolving specific questions that arise regarding authorized recipients of protected information.
- (d) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

702.8 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Yuba County District Attorney's Office policy or training. Only those members who have completed applicable training and met any applicable requirements, such as a background check, may access protected information, and only when the member has a legitimate work-related reason for such access.

Protected information may be released only to authorized recipients who have both a right to know and a need to know.

Unauthorized access, including access for other than a legitimate work-related purpose, is prohibited and may subject a member to administrative action pursuant to the Personnel Complaints Policy and/or criminal prosecution.

702.10 REVIEW OF CRIMINAL OFFENDER RECORD

Individuals requesting to review their own California criminal history information shall be referred to the Department of Justice (Penal Code § 11121).

Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements regarding authority and procedures in Penal Code § 11120 through Penal Code § 11127 (Penal Code § 13321).

702.12 MEMBER RESPONSIBILITIES

Members accessing or receiving protected information shall ensure the information is not accessed or received by persons who are not authorized to access or receive it. This includes leaving protected information, such as documents or computer databases, accessible to others when it is reasonably foreseeable that unauthorized access may occur (e.g., on an unattended table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

702.14 TRAINING

All members authorized to access or release protected information shall complete a training program that complies with any protected information system requirements and identifies authorized access and use of protected information, as well as its proper handling and dissemination.

No employee shall be authorized to operate computer terminal equipment with access to CORI until the operator has completed the appropriate training.

The Criminal Record Security Officer shall coordinate the course to provide training in the proper use, control, and dissemination of CORI.

702.14 PENALTIES FOR MISUSE OF RECORDS

Penal Code §§ 11140 and 11144 make it a misdemeanor to furnish, buy, receive, or possess Department of Justice rap sheets without authorization by a court, statute, or case law.

Title 11, California Administrative Code § 702 provides that authorized persons or agencies violating the Regulations Regarding the Security of Criminal Offender Record Information in California may lose direct access to CORI maintained by the California Department of Justice.

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy Manual § 340.4.6. Employees who obtain, or attempt to obtain, information from the department files other than that to which they are entitled in accordance with their official duties is a violation of Policy Manual § 340.3.7.

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CHAPTER 8 – MANDATORY NOTIFICATIONS

**Policy
800**

SUBJECT:

**Anti-Reproductive Rights Crime
Reporting**

800.0 PURPOSE AND SCOPE

This policy shall establish a procedure for the mandated reporting of Anti-Reproductive Rights Crimes (ARRC) to the Attorney General pursuant to the Reproductive Rights Law Enforcement Act (Penal Code § 13775 et seq.).

800.2 DEFINITIONS

Penal Code § 423.2 provides that the following acts shall be considered Anti-Reproductive Rights Crimes (ARRC) when committed by any person, except a parent or guardian acting towards his or her minor child or ward:

- (a) By force, threat of force, or physical obstruction that is a crime of violence, intentionally injures, intimidates, interferes with, or attempts to injure, intimidate, or interfere with any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider, or assistant
- (b) By non-violent physical obstruction, intentionally injures, intimidates, or interferes with, or attempts to injure, intimidate, or interfere with, any person or entity because that person or entity is a reproductive health services client, provider, or assistant, or in order to intimidate any person or entity, or any class of persons or entities, from becoming or remaining a reproductive health services client, provider or assistant
- (c) Intentionally damages or destroys the property of a person, entity, or facility, or attempts to do so, because the person, entity, or facility is a reproductive health services client, provider, assistant, or facility

800.4 REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

- (a) Upon the receipt of the report of an ARRC, it shall be the responsibility of the employee taking such a report to also complete an **ARRC Data Collection Worksheet (BCIA 8371)** in accordance with the instructions contained on such forms.
- (b) The ARRC Data Collection Worksheet shall be processed with all related reports and forwarded to the Investigation Chief Investigator.
- (c) By the tenth day of each month, it shall be the responsibility of the Investigation Chief Investigator to ensure that a **Summary Worksheet (BCIA 8370)** is submitted to the Department of Justice Criminal Justice Statistics Center.
 - 1. In the event that no ARRC(s) were reported during the previous month, a Summary Worksheet shall be submitted to Department of Justice with an indication that no such crimes were reported.
 - 2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).

Policy 802	SUBJECT: Mandatory Employer Notification
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800.0 PURPOSE AND SCOPE

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

800.2 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

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

800.4 ARREST OF PUBLIC SCHOOL TEACHER

In the event a public school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a) or Education Code § 44010, the District Attorney or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the teacher and to immediately give written notice of the arrest to the Commission on Teacher Credentialing and to the superintendent of schools in the county where the person is employed (Health and Safety Code § 11591; Penal Code § 291).

800.6 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

In the event a public school non-teacher employee is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290, Penal Code § 261(a) or Education Code § 44010, the District Attorney or his/her designee is mandated to immediately notify by telephone the superintendent of the school district employing the non-teacher and to immediately give written notice of the arrest to the governing board of the school district employing the person (Health and Safety Code § 11591; Penal Code § 291).

800.8 ARREST OF PRIVATE SCHOOL TEACHER

In the event a private school teacher is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety Code § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(12), or for any of the offenses enumerated in Penal Code § 290 or Education Code § 44010, the District Attorney or his/her designee is mandated to immediately notify by telephone the private school authority employing the teacher and to immediately give written notice of the arrest to the private school authority employing the teacher (Health and Safety Code § 11591; Penal Code § 291.1).

800.10 ARREST OF COMMUNITY COLLEGE INSTRUCTOR

In the event a teacher or instructor employed in a community college district school is arrested for any controlled substance offense enumerated in Health and Safety Code § 11590 or Health and Safety § 11364, in so far as that section relates to Health and Safety Code § 11054(d)(9), or for any of the offenses enumerated in Penal Code § 290 or in Penal Code § 261(a)(1), the District Attorney or the authorized designee is mandated to immediately notify by telephone the superintendent of the community college district employing the person, and shall immediately give written notice of the arrest to the California Community Colleges Chancellor's Office (Health and Safety Code § 11591.5; Penal Code § 291.5).

800.12 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES

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

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CHAPTER 9 – PERSONNEL

Policy 900	SUBJECT: Required Information
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900.0 TELEPHONE AND RESIDENCE ADDRESS REQUIREMENTS

Investigators shall maintain a residence telephone for emergency contact. Residence telephone numbers and addresses shall be provided in writing to the Legal Services Supervisor, and any changes shall be reported immediately. Likewise, all Investigators will keep a current copy of the Office Call-out list accessible during off-duty hours.

Policy 902	SUBJECT: Recruitment and Selection
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902.0 POLICY

In accordance with applicable federal, state and local law, the Yuba County District Attorney's Office provides equal opportunities for applicants and

employees, regardless of race, gender expression, age, pregnancy, religion, creed, color, national origin, ancestry, physical or mental handicap, genetic information, veteran status, marital status, sex or any other protected class or status. The Department does not show partiality or grant any special status to any applicant, employee or group of employees unless otherwise required by law.

The Department will recruit and hire only those individuals who demonstrate a commitment to service and who possess the traits and characteristics that reflect personal integrity and high ethical standards.

902.2 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify his/her personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the Yuba County District Attorney's Office (11 CCR 1953).

Background investigators retained by this Office shall be appropriately trained and experienced to ensure that:

- (a) The legal rights of candidates are protected.
- (b) Material and information to be considered are verified, accurate and validated.
- (c) The Department fully complies with applicable privacy protections and local, state and federal law.

Due to the potential for accessing unsubstantiated, private or protected information, candidates shall not be required to provide passwords, account information or access to password-protected social media accounts (Labor Code § 980).

The background report and all supporting documentation shall be included in the candidate's background investigation file (11 CCR 1953) and maintained in accordance with the appropriate records retention schedule.

902.4 QUALIFICATION GUIDELINES

As a general rule, performance indicators and candidate information and records shall be evaluated by considering the candidate as a whole, and taking into consideration the following:

- Age at the time the behavior occurred

- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public
- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

A candidate's qualifications will be assessed on a case-by-case basis, using a totality-of-the-circumstances framework.

If information disclosed in a candidate's criminal offender record information (CORI) is the basis for an adverse employment decision, a copy of the CORI shall be provided to the applicant (Penal Code § 11105).

902.6 EMPLOYMENT STANDARDS

Candidates will be evaluated based on merit, ability, competence and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community.

Candidates shall meet the minimum standards established by POST (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.):

- (a) Free of any felony convictions
- (b) Citizen of the United States, or permanent resident alien eligible for and has applied for citizenship
- (c) At least 18 years of age
- (d) Fingerprinted for local, state and national fingerprint check
- (e) Good moral character as determined by a thorough background investigation (11 CCR 1953)
- (f) High school graduate, passed the GED or other high school equivalency test or obtained a two year, four year or advanced degree from an accredited or approved institution
- (g) Free from any physical, emotional or mental condition which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)

(h) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):

1. Reading and writing ability assessment (11 CCR 1951)
2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)

In addition to the above minimum POST required standards, candidates may be subjected to additional standards established by the Department (Penal Code § 13510(d)).

Policy 904	SUBJECT: Evaluation of Employees
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904.0 PURPOSE AND SCOPE

The Department's employee performance evaluation system is designed to record work performance for both the Department and the employee, providing recognition for good work and developing a guide for improvement.

904.2 POLICY

The Yuba County District Attorney's Office utilizes a performance evaluation report to measure performance and to use as a factor in making personnel decisions that relate to merit increases, promotion, reassignment, discipline, demotion and termination. The evaluation report is intended to serve as a guide for work planning and review by the supervisor and employee. It gives supervisors a way to create an objective history of work performance based on job standards.

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to sex, race, color, national origin, religion, age, disability or other protected classes.

904.4 FULL TIME PROBATIONARY PERSONNEL

Personnel are on probation for 12 months before being eligible for certification as permanent employees. An evaluation is completed every 3 months for full-time personnel during the probationary period.

904.6 EVALUATION INTERVIEW

When the supervisor has completed a preliminary evaluation, arrangements shall be made for a private discussion of the evaluation with the employee. The supervisor should discuss the results of the just completed rating period and clarify any questions the employee may have. If the employee has valid and reasonable protests of any of the ratings, the supervisor may make appropriate changes to the evaluation. Areas needing improvement and goals for reaching the expected level of performance should be identified and discussed. The supervisor should also provide relevant counseling regarding advancement, specialty positions and training opportunities. The supervisor and employee will sign and date the evaluation. Permanent employees may also write comments in the Employee Comments section of the performance evaluation report.

904.12 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the employee's personnel file in the office of the District Attorney for the tenure of the employee's employment. A copy will be given to the employee and a copy will be forwarded to County Department of Human Resources.

**Policy
906**

SUBJECT:

Grievance Procedure

906.0 PURPOSE AND SCOPE

It is the policy of this department that all grievances be handled quickly and fairly without discrimination against employees who file a grievance whether or not there is a basis for the grievance. Our Department's philosophy is to promote a free verbal communication between employees and supervisors.

906.2 GRIEVANCE DEFINED

A grievance is any difference of opinion concerning terms or conditions of employment or the dispute involving the interpretation or application of any of the following documents by the person(s) affected:

- (a) The employee bargaining agreement (Memorandum of Understanding)
- (b) This Policy Manual
- (c) County rules and regulations covering personnel practices or working conditions

Grievances may be brought by an individual affected employee or by a group representative.

Specifically outside the category of grievance are complaints related to alleged acts of sexual, racial, ethnic or other forms of unlawful harassment, as well as complaints related to allegations of discrimination on the basis of sex, race, religion, ethnic background and other lawfully protected status or activity are subject to the complaint options set forth in the Workplace Discrimination and Harassment Policy, and personnel complaints consisting of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law set forth in the Personnel Complaint Policy.

906.4 PROCEDURE

Except as otherwise required under a collective bargaining agreement, if an employee believes that he or she has a grievance as defined above, then that employee shall observe the following procedure:

- (a) Attempt to resolve the issue through informal discussion with the Chief Investigator or other immediate supervisor.
- (b) If after a reasonable amount of time, generally seven days, the grievance cannot be settled by the immediate supervisor, the employee may request an interview with the Chief Deputy District Attorney.

- (c) If a successful resolution is not found with the Chief Deputy District Attorney, the employee may request a meeting with the District Attorney.
- (d) If the employee and the District Attorney are unable to arrive at a mutual solution, then the employee shall proceed as required under the collective bargaining agreement.

**Policy
908**

SUBJECT:

Reporting Employee Convictions

Convictions of certain offenses may restrict or prohibit an employee's ability to properly perform official duties. Therefore, all employees shall be required to promptly notify the Department of any past and current criminal convictions.

The Chief Investigator shall submit in a timely manner a notice to the Commission on Peace Officer Standards and Training (POST) of any appointment, termination, reinstatement, name change or status change regarding any peace officer employed by this department (11 CCR 1003).

The Chief Investigator shall submit in a timely manner a notice to POST of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR 1003).

908.2 CRIMINAL CONVICTIONS AND RESTRAINING ORDERS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo contendere plea. California and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing a firearm.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee's ability to fully perform the duties of the job.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust.

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

908.4 REPORTING PROCEDURE

All members of this department and all retired investigators with an identification card issued by the Department shall promptly notify their immediate supervisor (or the District Attorney in the case of retired investigators) in writing of any past or current criminal arrest or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All members and all retired investigators with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the District Attorney in the case of retired investigators) in writing if the member or

retiree becomes the subject of a domestic violence restraining order or similar court order.

Any member whose criminal conviction unduly restricts or prohibits that member from fully and properly performing his/her duties may be disciplined including, but not limited to, being placed on administrative leave, reassignment and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the member on his/her own time and expense.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

908.6 PROCEDURE FOR RELIEF

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

Pursuant to Family Code § 6389(h), an individual may petition the court for an exemption to any restraining order, which would thereafter permit the individual to carry a firearm as a part of their employment. Relief from any domestic violence or other restriction shall also be pursued through the employee's own resources and on the employee's own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned or disciplined. The Department may, but is not required to return an employee to any assignment, reinstate any employee or reverse any pending or imposed discipline upon presentation of satisfactory proof of relief from any legal restriction set forth in this policy.

Policy 910	SUBJECT: Alcohol and Drug Use
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910.0 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace.

910.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members. This department adopts the Yuba County Alcohol and Drug Use Policy.

Members who have consumed an amount of an alcoholic beverage or taken any medication, or combination thereof, that would tend to adversely affect their mental or physical abilities shall not report for duty. Affected members shall notify the Supervising Investigator or appropriate supervisor as soon as the member is aware that he/she will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, he/ she shall be immediately removed and released from work.

Any member who is medically required or has a need to take any medication that will impair their ability to safely and completely perform their duties shall report that need to his/her immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Department while taking any medication that has the potential to impair his/her abilities, without a written release from his/her physician.

Possession of medical marijuana or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action.

910.4 WORK RESTRICTIONS

If a member informs a supervisor that he/she has consumed any alcohol, drug or medication that could interfere with a safe and efficient job performance, the member may be required to obtain clearance from his/her physician before continuing to work.

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall ensure that he/she is safely transported away from the Department.

910.6 REQUESTING SCREENING TESTS

The supervisor may request an employee to submit to a screening test under the following circumstances:

(a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently.

(b) The employee discharges a firearm, other than by accident, in the performance of his/her duties.

(c) During the performance of his/her duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury to him/herself or another person, or substantial damage to property.

910.8 SUPERVISOR RESPONSIBILITY

The supervisor shall prepare a written record documenting the specific facts that led to the decision to request the test, and shall inform the employee in writing of the following:

(a) The test will be given to detect either alcohol or drugs, or both.

(b) The result of the test is not admissible in any criminal proceeding against the employee.

(c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

910.10 SCREENING TEST REFUSAL

An employee may be subject to disciplinary action if he/she:

(a) Fails or refuses to submit to a screening test as requested.

(b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.

(c) Violates in provisions of this policy.

910.12 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

910.14 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process. The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately from the employee's other personnel files.

Policy 912	SUBJECT: Communicable Diseases
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912.0 PURPOSE AND SCOPE

This policy provides general guidelines to assist in minimizing the risk of department members contracting and/or spreading communicable diseases.

912.2 DEFINITIONS

Definitions related to this policy include:

Communicable disease - A human disease caused by microorganisms that are present in and transmissible through human blood, bodily fluid, tissue, or by breathing or coughing. These diseases commonly include, but are not limited to, hepatitis B virus (HBV), HIV and tuberculosis.

Exposure - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Yuba County District Attorney's Office.

912.4 EXPOSURE CONTROL OFFICER

The District Attorney will assign a person as the Exposure Control Officer (ECO). The ECO shall develop an exposure control plan that includes:

- (a) Exposure-prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that department members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
 1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
 2. Bloodborne pathogen mandates including (8 CCR 5193):

- Sharps injury log.
 - Needleless systems and sharps injury protection.
3. Airborne transmissible disease mandates including (8 CCR 5199):
 - Engineering and work practice controls related to airborne transmissible diseases.
 - Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.
 4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).
 5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease (Health and Safety Code § 1797.188).

The ECO should also act as the liaison with the Division of Occupational Safety and Health (Cal/ OSHA) and may request voluntary compliance inspections. The ECO shall annually review and update the exposure control plan and review implementation of the plan (8 CCR 5193).

912.6 EXPOSURE PREVENTION AND MITIGATION - GENERAL PRECAUTIONS

All members are expected to use good judgment and follow training and procedures related to mitigating the risks associated with communicable disease. This includes, but is not limited to (8 CCR 5193):

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or department vehicles, as applicable.
- (b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
- (e) Using an appropriate barrier device when providing CPR.

- (f) Using a facemask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
- (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
- (i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
- (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

912.8 POST EXPOSURE - INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

- (a) Begin decontamination procedures immediately (e.g., wash hands and any other skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practicable.

912.10 REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor shall ensure the following information is documented (8 CCR 5193):

- (a) Name and Social Security number of the member exposed
- (b) Date and time of the incident
- (c) Location of the incident

- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., clean-up, notifications)

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited.

The supervisor should complete the incident documentation in conjunction with other reporting requirements that may.

912.12 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Department members shall have the opportunity to have a confidential medical evaluation immediately after an exposure and follow-up evaluations as necessary (8 CCR 5193).

The ECO should request a written opinion/evaluation from the treating medical professional that contains only the following information:

- (a) Whether the member has been informed of the results of the evaluation.
- (c) Whether the member has been notified of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.

No other information should be requested or accepted by the ECO.

912.14 COUNSELING

The Department shall provide the member, and his/her family if necessary, the opportunity for counseling and consultation regarding the exposure (8 CCR 5193).

912.16 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate (8 CCR 5193). Source testing is the responsibility of

the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Complying with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.
- (c) Testing the exposed member for evidence of a communicable disease and seeking consent from the source individual to either access existing blood samples for testing or for the source to submit to testing (Health and Safety Code § 120262).
- (d) Taking reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).
- (e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing a person when the exposed member qualifies as a crime victim (Penal Code § 1524.1).

Since there is the potential for overlap between the different manners in which source testing may occur, the ECO is responsible for coordinating the testing to prevent unnecessary or duplicate testing.

912.18 CONFIDENTIALITY OF REPORTS

Medical information shall remain in confidential files and shall not be disclosed to anyone without the member's written consent (except as required by law). Test results from persons who may have been the source of an exposure are to be kept confidential as well.

912.20 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position.

**Policy
914**

SUBJECT:

Personal Appearance Standards

914.0 PURPOSE AND SCOPE

An employee of this office shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

914.2 GROOMING STANDARDS

Unless otherwise stated and because deviations from these standards could present officer safety issues, the following appearance standards shall apply to all employees, except those whose current assignment would deem them not appropriate, and where the District Attorney has granted exception.

914.4 HAIR

Hairstyles of all members shall be neat in appearance. For male sworn members, hair must not extend below the top edge of the shirt collar while assuming a normal stance.

914.6 FACIAL HAIR

Facial hair may be worn if it is neatly trimmed and not excessively long.

914.8 TATTOOS

While on-duty or representing the Department in any official capacity, every reasonable effort should be made to conceal tattoos or other body art. At no time while on-duty or representing the Department in any official capacity, shall any offensive tattoo or body art be visible. Examples of offensive tattoos would include, but not be limited to, those which depict racial, sexual, discriminatory, gang related, or obscene language.

914.10 BODY PIERCING

Except for a single stud pierced earring worn in the lobe of each ear, no body piercing shall be visible while any employee is on duty or representing the office in any official capacity without prior authorization from the District Attorney.

914.12 DRESS SPECIFICATIONS

Clothing worn by sworn and non-sworn employees shall be neat, clean and in good repair. All footwear shall be clean or polished and in good repair.

Except as approved by a supervisor, employees may not wear the following:

- (1) Overalls or coveralls.
- (2) Shorts of any type.
- (3) Tee shirts or jerseys with graphics including logos related to team sports.
- (4) Gym or sweat pants, workout wear, uncovered spandex pants/leggings.
- (5) Shirts or dresses with spaghetti straps unless covered by a jacket, blouse or other outer garment; shirts that expose stomach or midriff area, halter or tube type shirts, see-through or fishnet tops.
- (6) Low front or low back attire.
- (7) Excessively tight fitting or oversized (baggy) garments.
- (8) Heels that are more than three inches high.
- (9) Sandals of any material which are commonly referred to as flip-flops or thongs.

914.14 MOURNING BADGE

Uniformed employees shall wear a black mourning band across the uniform badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

- (a) An investigator of this department - From the time of death until midnight on the 14th day after the death.
- (b) A peace officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of an out of region fallen officer.
- (d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.
- (e) As directed by the Chief Investigator.

914.16 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the District Attorney, Yuba County District Attorney's Office employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the Yuba County District Attorney's Office to do any of the following (Government Code §§ 3206 and 3302):

- (a) Endorse, support, oppose, or contradict any political campaign or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

Policy 916	SUBJECT: Personnel Complaints
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916.0 PURPOSE AND SCOPE

The Yuba County District Attorney's office has a continuing obligation to ensure that office procedures and actions are reasonable and effective, and that complaints against those procedures and actions are given thorough and fair attention. Such investigative process will not only provide for corrective action when appropriate, but will also protect against unwarranted criticism when procedures or actions are proper.

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Yuba County District Attorney's Office. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

916.2 POLICY

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements. It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

916.4 COMPLAINTS DEFINED

A complaint is an act of expressed dissatisfaction which relates to office operations, personnel conduct or unlawful acts.

1. A procedure complaint is an expressed dissatisfaction with established procedure, properly employed by an employee, which the complainant understands but believes is inappropriate or not valid.
2. A misconduct complaint is one that contains an allegation which, if proved, would amount to a violation of the law or of office and/or County policies, procedures, rules or regulations.

1019.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.

- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

Although written complaints are preferred, a complaint may be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

If requested, a complainant shall be provided with a copy of his/her statement at the time it is filed with the Department (Penal Code § 832.7)

Acceptance of Complaints

All office employees will accept complaints against Investigative Services staff from any source, whether made in person, by mail, by telephone or by an anonymous person. The complaint or complainant shall be directed to the Chief Deputy District Attorney or, in his/her absence, the Administrative Assistant.

In accordance with state law, any citizen requesting a copy of the Office policy regarding citizens' complaints against law enforcement employees shall be provided with the appropriate form. The form can be obtained from the Chief Deputy District Attorney or Administrative Assistant.

Complaints Alleging Misconduct or Criminal Activity

When the Chief Deputy DA receives complaints of criminal activity or misconduct which, if sustained, would result in formal discipline or criminal charges, he/she shall ensure that the complaint is reduced to writing on a citizen's complaint form and signed under penalty of perjury by the complaining citizen.

In compliance with sections 832.5 and 832.7 of the Penal Code, the complaint form shall contain a summary of the office policy regarding citizen complaints against law enforcement personnel. Additionally, said document will contain an

admonishment that any fraudulent or fictitious complaint may subject the complainant to prosecution pursuant to 148.9 P.C.

Regardless of whether the complainant signs the form, the underlying complaint will be investigated and retained per policy.

Investigation of Complaint

The Chief Deputy DA shall undertake a full investigation, including review of existing policy or procedure and the interviewing of complainant(s), employee(s) and other witnesses. Investigations will be conducted in compliance with all applicable state law and County regulations. Where criminal conduct is alleged, any criminal investigation into the matter shall take full and complete priority over any administrative investigation.

Finding of "Procedural Corrections Needed"

When the investigation reveals that there have been no violations of procedure, but procedural corrections need to be made, a timely modification of the procedure will be reviewed and adopted by the District Attorney.

When the investigation reveals that no procedural violations occurred and no procedural corrections are needed, the complaining citizen(s) shall be contacted and advised of the finding.

Misconduct Findings

In investigations of alleged misconduct, the following findings are available:

1. **Unfounded:** The investigation conclusively proved that the act or acts complained of did not occur. This finding also applies when the individual employee(s) named was not involved in the act or acts that may have occurred.
2. **Exonerated:** The acts which provided the basis for the complaint or allegation occurred, however, the investigation revealed that they were justified, lawful and proper.
3. **Not Sustained:** The investigation failed to disclose sufficient evidence to clearly and convincingly prove the allegation made in the complaint.
4. **Sustained:** The investigation disclosed sufficient evidence to clearly prove the allegation made in the complaint.
5. **No Finding:** The complainant failed to disclose promised information to further the investigation; or the investigation revealed that another agency was involved and the complainant has been referred to that agency; or the

complainant wishes to withdraw the complaint; or the complainant is no longer available for clarification

6. Reported Only: The complaint is, on its face, blatantly spurious or is the product of a self-serving or delusional mind.

Actions Upon Reaching a Finding

Upon completion of the investigation, the Chief Deputy DA shall forward final reports and supporting documents, along with a memorandum of findings and recommendation to the District Attorney.

1. The District Attorney is not bound to the finding or recommendation but may, at his discretion, make a new and separate finding as to appropriate disciplinary action.
2. Upon the concurrence or direction of the District Attorney, the Chief Deputy DA shall implement the approved action. Discipline, if any, shall be consistent with the charged level of misconduct and imposed in compliance with state law and County personnel codes.

Processing Approved Findings and Recommendations

Approved findings and recommendations shall be processed in the following manner:

1. For sustained findings, a written notice of completion and finding will be given directly to the involved employee.
 - A copy of the disciplinary record will be placed within the personnel file of the disciplined employee after the employee is given an opportunity to sign. Refusal to sign does not bar placement in the employee's personnel folder. Upon any refusal to sign, the Chief Deputy DA will indicate on the disciplinary notice that the employee refused to sign and arrange for the document to be placed in the employee's personnel folder.
 - The original investigation file will be retained in a separate Internal Investigations file.
 - Discipline shall be administered in a fashion prescribed by County regulations.
2. For other than a Sustained case, the following procedure will be followed:
 - A written notice of completion and finding will be given directly to the involved employee.

- The original report and supporting documents will be retained, per state law, for a minimum of five years in and only within an Internal Investigations file. A copy will not be placed in the employee's personnel file.

Confidentiality of Internal Investigation Records

All information developed through an Internal Investigation, including findings or any resulting discipline, is confidential and shall not be released to anyone except as noted below:

- Complaining citizens should be informed of minimal disposition details, such as "sustained, not sustained, unfounded, exonerated," etc. The definitions of the findings shall be explained in the process.
- When the finding is sustained, the citizen shall only be informed that "appropriate action" has or is being taken.
- In instances where the matter involved properly followed procedure or properly followed procedure that was subsequently modified, the complaining citizen may be so informed. Discretion should be exercised. When in doubt, the issue should be discussed with the District Attorney or County Counsel prior to the discussion with the citizen.

The Attorney General or his designee has rightful access to any Internal Investigation file when a demonstrated need to know is established. Summary statistical information must also be released in response to yearly reporting requirements by the Department of Justice.

1019.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows

1019.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The District Attorney or the authorized designee may direct that another supervisor investigate any complaint.

In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is

at issue, a supervisor shall orally report the matter to the member's Chief Investigator or the District Attorney, who will initiate appropriate action.

Supervisors shall respond to all complaints in a courteous and professional manner. Contact with the complainant should be made within 24 hours of the Department receiving the complaint. Supervisors shall resolve those personnel complaints that can be resolved immediately.

If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the District Attorney.

The District Attorney should be notified as soon as practicable of a complaint involving allegations of a potentially serious nature. The Department of Human Resources shall be contacted for direction in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.

Unresolved personnel complaints will be forwarded either to the Chief Deputy District Attorney or to the Chief Investigator, who will determine whether to contact the complainant or assign the complaint for investigation.

(g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.

(h) Investigating a complaint as follows:

4. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
5. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).

Ensuring interviews of the complainant are generally conducted during reasonable hours.

1019.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or the Chief Investigator, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

- a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.

- b) Unless waived by the member, interviews of an accused member shall be at the Yuba County District Attorney's Office or other reasonable and appropriate place.
- c) No more than two interviewers should ask questions of an accused member.
- d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the investigator in charge of the investigation, the interviewing officers and all other persons to be present during the interview.
- e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.
- f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
- g) A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement and after the investigator has consulted with the prosecuting agency.
- h) The interviewer shall record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.
- i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- j) All members shall provide complete and truthful responses to questions posed during interviews.
- k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any investigator solely because the investigator has been placed on a prosecutor's Brady list or the name of the

investigator may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the investigator has been placed on a Brady list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

1019.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

1019.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct. If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1019.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1. The assigned investigator or supervisor shall ensure that within 30 days of the final disposition of the complaint, the complainant is provided written notification of the disposition (Penal Code § 832.7(e)).

1019.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, with the member's consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

1019.7.1 DISCLOSURE OF FINANCIAL INFORMATION

An employee may be compelled to disclose personal financial information under the following circumstances (Government Code § 3308):

- (a) Pursuant to a state law or proper legal process
- (b) Information exists that tends to indicate a conflict of interest with official duties
- (c) If the employee is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements

1019.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the District Attorney or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1019.9 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the District Attorney through the chain of command. Each level of command should review and include their comments in writing before forwarding the report. The District Attorney may accept or modify any classification or recommendation for disciplinary action.

1019.9.1 DISTRICT ATTORNEY RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the District Attorney shall review the recommendation and all accompanying materials. The District Attorney may modify any recommendation and/or may return the file to the Chief Investigator for further investigation or action.

Once the District Attorney is satisfied that no further investigation or action is required by staff, the District Attorney shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the District Attorney shall provide the member with a pre-disciplinary procedural due process hearing (*Skelly*) by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The District Attorney shall also provide the member with:

- (a) Access to all of the materials considered by the District Attorney in recommending the proposed discipline.

- (b) An opportunity to respond orally or in writing to the District Attorney within five days of receiving the notice.
3. Upon a showing of good cause by the member, the District Attorney may grant a reasonable extension of time for the member to respond.
 4. If the member elects to respond orally, the presentation may be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the District Attorney shall consider all information received in regard to the recommended discipline. The District Attorney shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the District Attorney has issued a written decision, the discipline shall become effective.

1019.12 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an investigator has been placed on a *Brady* list or is otherwise subject to *Brady* restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such *Brady* evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

1019.14 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files Policy.

1019.15 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The District Attorney shall be notified as soon as practicable when a member is accused of criminal conduct. The District Attorney may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The Yuba County District Attorney's Office may release information concerning the arrest or detention of any member, including an investigator that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

Policy 918	SUBJECT: Anti-Retaliation
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918.0 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or

remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

918.2 POLICY

The Yuba County District Attorney's Office has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy. Retaliation includes any adverse action or conduct, including but not limited to:

- (a) Refusing to hire or denying a promotion.
- (b) Extending the probationary period.
- (c) Unjustified reassignment of duties or change of work schedule.
- (d) Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- (e) Taking unwarranted disciplinary action.
- (f) Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- (g) Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

918.4 COMPLAINTS OF RETALIATION

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, Chief Investigator, Legal Services Supervisor, District Attorney or the County Personnel Director.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing

it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

918.6 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the District Attorney via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

Policy 920	SUBJECT: Personnel Files
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920.0 PURPOSE AND SCOPE

This section governs the maintenance, retention and access to peace officer personnel files in accordance with established law. It is the policy of this department to maintain the confidentiality of peace officer personnel records pursuant to Penal Code § 832.7.

920.2 PERSONNEL FILES DEFINED

Pursuant to Penal Code § 832.8, peace officer personnel records shall include any file maintained under an individual investigator's name relating to:

- (a) Personal data, including marital status, family members, educational and employment history, or similar information.
- (b) Medical history including medical leave of absence forms, fitness for duty examinations, workers compensation records, medical releases and all other

records which reveal an employee's past, current or anticipated future medical conditions.

- (c) Election of employee benefits.
- (d) Employee advancement, appraisal, or discipline.
- (e) Complaints, or investigations of complaints, concerning an event or transaction in which the investigator participated, or which the investigator perceived, and pertaining to the manner in which the investigator performed official duties.
- (f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

920.4 EMPLOYEE RECORD LOCATIONS

Employee records will generally be maintained in any of the following:

Department File - That file which is maintained in the office of the District Attorney as a permanent record of a sworn investigator's employment with this department.

Supervisor Log Entries - Any written comment, excluding actual performance evaluations, made by a supervisor concerning the conduct of an employee of this department.

Training File - Any file which documents the training records of an employee.

Internal Affairs Files - Those files that contain complaints of employee misconduct and all materials relating to the investigation into such allegations, regardless of disposition.

Medical File - That file which is maintained separately that exclusively contains material relating to an employee's medical history.

920.6 CONFIDENTIALITY OF ALL PERSONNEL FILES

Pursuant to Penal Code § 832.7, all of the above-defined personnel records shall be deemed confidential and shall not be subject to disclosure except pursuant to the discovery procedures set forth in Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws.

Nothing in this section is intended to preclude review of personnel files by the County Executive, County Counsel or other attorneys or representatives of the County in connection with official business.

920.8 REQUESTS FOR DISCLOSURE

Only written requests for the disclosure of any information contained in any peace officer personnel record will be considered. Since the format of such requests may be strictly governed by law with specific responses required, all such requests shall be promptly brought to the attention of the Supervising Investigator, the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected employee(s) as soon as practicable that such a request has been made (Evidence Code § 1043(a)).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this will require assistance of approved and available legal counsel. All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

920.10 RELEASE OF CONFIDENTIAL INFORMATION

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential peace officer personnel file shall be disclosed to any unauthorized person(s) without the express consent of the involved investigator or written authorization of the District Attorney or his or her designee.

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

Pursuant to Penal Code § 832.7(e), the disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the investigator who is the subject of the investigation (or the investigator's representative) publicly makes a statement which is published in the media and which the investigator (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7(d)).

920.12 EMPLOYEE ACCESS TO OWN FILE

Any employee may request access to his/her own personnel file(s) during the normal business hours of the individual(s) responsible for maintaining such file(s).

Any employee seeking the removal of any item from his/her personnel file shall file a written request to the District Attorney through the chain of command. The Department shall thereafter remove any such item if appropriate or within 30 days provide the employee with a written explanation why the contested item will not be removed (Government Code 3306.5). If the contested item is not removed from the file, the employee's request and the department's written response shall be retained with the contested item in the employee's personnel file.

Employees may be restricted from accessing files containing any of the following information:

- (a) Ongoing Internal affairs investigations to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the employee of the intent to discipline.
- (b) Confidential portions of Internal Affairs files which have not been sustained against the employee

920.14 TYPES OF PERSONNEL FILES

Peace officer personnel files can be located in any of the following places:

920.16 DEPARTMENT FILE

The Department file should contain, but is not limited to, the following:

- (a) Performance evaluation reports regularly completed by appropriate supervisor and signed by the affected employee shall be permanently maintained.
- (b) Records of all training (original or photocopies of available certificates, transcripts, diplomas and other documentation) and education shall be maintained.
 - 1. It shall be the responsibility of the involved employee to provide the Supervising Investigator or immediate supervisor with evidence of completed training/education in a timely manner.
 - 2. The Supervising Investigator or supervisor shall ensure that copies of such training records are placed in the employee's department file.
- (c) Disciplinary action:

1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained in the individual employee's department file at least two years (Government Code § 34090).
 2. Disciplinary action resulting from a sustained citizen's complaint shall be maintained in the individual employee's department file at least five years (Penal Code § 832.5).
 3. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's department file, but will be separately maintained for the appropriate retention period in the internal affairs file.
- (d) Adverse comments such as supervisor log entries may be retained in the department file or division file after the employee has had the opportunity to read and initial the comment and for a period up to two years Government Code § 3305).
1. Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such adverse comment within 30 days (Government Code § 3306).
 2. Any such employee response shall be attached to and retained with the original adverse comment. If an employee refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.
- (e) Commendations shall be retained in the employee's department file, with a copy provided to the involved employee.
- (f) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status shall be permanently retained.
- (g) A photograph of the employee shall be permanently retained.

920.18 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Chief Investigator in conjunction with the office of the District Attorney. Access to these files may only be approved by the District Attorney or the supervisor of the Chief Investigator. These files shall contain:

- (a) The complete investigation of all formal complaints of employee misconduct, regardless of disposition
 - 1. Each investigation file shall be sequentially numbered within a calendar year (e.g., yy-001, yy-002).
 - 2. Each investigation file arising out of a formal citizen's complaint or a complaint involving a discriminatory harassment or hostile work environment shall be maintained no less than five years (Penal Code § 832.5(b)). Investigation files arising out of other internally generated complaints shall be maintained no less than two years (Government Code § 34090).
- (b) Investigations that result in other than a sustained finding shall be maintained for the minimum statutory period but may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5 (c)).

920.20 TRAINING FILES

An individual training file shall be maintained for each employee. Training files will contain records of all training and education mandated by law or the Department, including firearms qualifications and mandated annual proficiency requalification.

- (a) It shall be the responsibility of the involved employee to provide the Supervising Investigator or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Supervising Investigator or supervisor shall ensure that copies of such training records are placed in the employee's training file.

920.22 MEDICAL FILE

A medical file shall be maintained separately from all other files and shall contain all documents relating to the employee's medical condition and history, including but not limited to the following:

- (a) Materials relating to medical leaves of absence.
- (b) Documents relating to workers compensation claims or receipt of short or long term disability benefits.
- (c) Fitness for duty examinations, psychological and physical examinations, follow-up inquiries and related documents.

- (d) Medical release forms, doctor's slips and attendance records which reveal an employee's medical condition.
- (e) Any other documents or material which reveals the employee's medical history or medical condition, including past, present, or future anticipated mental, psychological, or physical limitations.

920.24 PURGING OF FILES

Formal citizen complaints and all related files not pending litigation or other ongoing legal proceedings may be purged no sooner than five years from the underlying complaint date (Penal Code § 832.5).

All other disciplinary files and investigations of non-citizen initiated complaints not pending litigation or other ongoing legal proceedings may be purged no sooner than two years from the underlying complaint date (Government Code § 34090; Government Code § 26202).

- (a) Each supervisor responsible for completing the employee's performance evaluation shall also determine whether any prior sustained disciplinary file should be retained beyond the statutory period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the applicable statutory period, approval for such retention shall be obtained through the chain of command from the District Attorney.
- (c) During the preparation of each employee's performance evaluation, all complaints and discipline should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. If, in the opinion of the District Attorney, a complaint or disciplinary action beyond the statutory retention period is no longer relevant, all records of such matter may be destroyed pursuant to resolution.

**Policy
922**

SUBJECT:

***Brady* Material Disclosure**

922.0 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called “*Brady* information”) to a prosecuting attorney.

922.2 DEFINITIONS

Definitions related to this policy include:

***Brady* information** -Information known or possessed by the Yuba County District Attorney's Office that is both favorable and material to the current prosecution or defense of a criminal defendant.

922.4 POLICY

Investigators will identify and disclose in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case.

If an investigator learns of potentially incriminating or exculpatory information any time after submission of a case, the investigator must prepare and submit a

supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor assigned to the case or to the Chief Deputy DA.

If information is believed to be privileged or confidential (e.g., confidential informant or protected personnel files), the investigator should discuss the matter with the Chief Investigator, Chief Deputy District attorney, or the assigned Brady compliance officer to determine the appropriate manner in which to proceed.

If an investigator is unsure whether evidence or facts are material, the investigator should address the issue with the Chief Investigator, Chief Deputy District attorney, or the assigned Brady compliance officer.

922.6 DISCLOSURE OF PERSONNEL INFORMATION

Whenever it is determined that *Brady* information is located in the personnel file of a member of this department who is a material witness in a criminal case, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the investigator's personnel file per the *Johnson* decision.

If the prosecuting attorney files a *Pitchess* motion in order to initiate an in camera review by the court the member who is the subject of such a motion shall be notified in writing that a motion has been filed.

If the court determines that there is relevant *Brady* information contained in the files, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

922.8 INVESTIGATING BRADY ISSUES

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

Policy 924	SUBJECT: Fitness For Duty
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924.0 PURPOSE AND SCOPE

All investigators are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all investigators of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

924.2 EMPLOYEE RESPONSIBILITIES

- a) It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- b) Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor.

In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

924.4 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.

- (d) In conjunction with the Chief Investigator, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- (e) The District Attorney shall be promptly notified in the event that any employee is relieved from duty.

924.6 WORK RELATED CONDITIONS

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Chief Investigator, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/ or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

- (a) A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate.
- (b) The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

924.8 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the District Attorney may serve that employee with a written order to undergo a physical and/ or psychological examination in cooperation with the Department of Human Resources to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)).
- (c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.

(d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.

(e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

(f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

924.10 APPEALS

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Personnel Complaints Policy.

**Policy
926**

SUBJECT:

Outside Employment

926.0 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the District Attorney prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the District Attorney in accordance with the provisions of this policy.

926.2 DEFINITIONS

Outside Employment - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

926.4 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the District Attorney. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must submit a written request to the employee's immediate supervisor. The application will then be forwarded through channels to the District Attorney for consideration.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

926.6 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the District Attorney within ten days of the date of denial.

926.8 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the District Attorney may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit
- (b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline
- (c) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked
- (d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status

926.10 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department

- (c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department
- (d) Involves time demands that would render performance of the employee's duties for this department less efficient

926.12 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

No investigator may engage in outside employment as a peace officer for any other public agency without prior written authorization of the District Attorney.

926.14 DEPARTMENT RESOURCES

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department.

926.16 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126).

Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit.

If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to the Revocation/Suspension of Outside Employment Permits section of this policy.

926.18 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the District Attorney through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the District Attorney any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

926.20 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status.

The Chief Investigator shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the District Attorney whether such outside employment should continue.

In the event the District Attorney determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the County's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
- (c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the Yuba County District Attorney's Office, a request (in writing) may be made to the District Attorney to restore the permit.

**Policy
928**

SUBJECT:

Political Activities

928.0 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the District Attorney, Yuba County District Attorney's Office employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the Yuba County District Attorney's Office to do any of the following (Government Code §§ 3206 and 3302):

- (a) Endorse, support, oppose, or contradict any political campaign or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

Yuba County District Attorney's Office
Investigative Services Policy Manual

CHAPTER 10 – MAJOR INCIDENTS

Policy 1000	SUBJECT: Media Relations
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1000.0 PURPOSE AND SCOPE

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

1000.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the District Attorney, however, in situations not warranting immediate notice to the District Attorney and in situations where the District Attorney has given prior approval, the Chief Deputy District Attorney, Chief Investigator, and designated District Attorney(s) may prepare and release information to the media in accordance with this policy and the applicable law.

1000.4 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated department media representative, or if unavailable, to the first available supervisor.

Prior to releasing any information to the media, employees shall consider the following:

- (a) At no time shall any employee of this department make any comment or release any official information to the media without prior approval from a supervisor or the designated department media representative.
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.

- (c) Under no circumstance should any member of this department make any comments to the media regarding any law enforcement incident not involving this department without prior approval of the District Attorney.

Any requests for copies of investigative reports will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.).

1000.6 MEDIA ACCESS

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

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
- (c) Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the District Attorney or other designated spokesperson.
- (d) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).
- (e) Media interviews with individuals who are in custody should not be permitted without the approval of the District Attorney and the express consent of the person in custody.

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

1000.8 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of investigators and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant,

should not be disclosed to the news media, nor should media representatives be invited to be present at such actions except with the prior approval of the District Attorney.

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

**Policy
1002**

SUBJECT:

Major Incident Notification

1002.0 PURPOSE AND SCOPE

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

1002.2 POLICY

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

1002.4 MINIMUM CRITERIA FOR NOTIFICATION

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

- (a) Homicides
- (b) Traffic accidents with fatalities
- (c) Officer-involved shooting - on or off duty
- (d) Significant injury or death to employee - on or off duty
- (e) Death of a prominent Yuba official
- (f) Arrest of a department employee or prominent Yuba official
- (g) Aircraft crash with major damage and/or injury or death
- (h) In-custody deaths

1002.6 SUPERVISING INVESTIGATOR RESPONSIBILITY

The Chief Investigator is responsible for making the appropriate notifications. The Chief Investigator shall make reasonable attempts to obtain as much information

on the incident as possible before notification. The Supervising Investigator shall attempt to make the notifications as soon as practicable. Notification should be made by calling the home telephone number first and then by any other available contact numbers.

1002.8 STAFF NOTIFICATION

In the event an incident occurs described in the Major Incident Notification Policy, the District Attorney shall be notified along with the Chief Investigator.

1002.10 DA INVESTIGATOR NOTIFICATION

If the incident requires that a DA Investigator respond from home, the Chief Investigator shall be contacted who will then contact the appropriate investigator.

1002.12 DISTRICT ATTORNEY (PIO)

The District Attorney shall be called after members of staff have been notified that it appears the media may have a significant interest in the incident.

**Policy
1004**

SUBJECT:

**Officer-Involved Shootings and
Deaths**

1004.0 PURPOSE AND SCOPE

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

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

1004.2 DISTRICT ATTORNEY INVESTIGATOR RESPONSIBILITIES

Investigators should adhere to the Yuba County Officer Involved Fatal Incident Protocol.

1004.4 TYPES OF INVESTIGATIONS

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

- (a) A criminal investigation of the suspect's actions.
- (b) A criminal investigation of the involved officer's actions. The District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death.
- (c) An administrative investigation as to policy compliance by involved investigators.
- (d) A civil investigation to determine potential liability.

1004.6 ADMINISTRATIVE AND CIVIL INVESTIGATION

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

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

1004.8 CRIMINAL INVESTIGATION PROCESS

Investigators should adhere to the Yuba County Officer Involved Fatal Incident Protocol.

1004.10 UNINVOLVED INVESTIGATOR RESPONSIBILITIES

An uninvolved YCDA investigator who is first to arrive at the scene of an officer-involved shooting will assume the responsibilities of the investigator-in-charge until properly relieved. This investigator should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from available agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

1004.12 SUPERVISOR RESPONSIBILITIES

An uninvolved YCDA supervisor who is first to arrive at the scene of an officer-involved shooting should ensure completion of the duties as outlined above, plus:

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
- (b) In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
 - 1. If necessary, the supervisor may administratively order any YCDA investigator to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 - 2. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.

3. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Each involved YCDA investigator should be given an administrative order not to discuss the incident with other involved officers or YCDA members pending further direction from a supervisor.
 - (d) When an involved officer's weapon is taken or left at the scene for other than officer safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other investigators.
 - (e)

1004.14 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
 1. Involved YCDA investigators shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 2. Requests from involved non-YCDA officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).
- (d) A licensed psychotherapist shall be provided by the Department to each involved YCDA investigator. A licensed psychotherapist may also be provided to any other affected YCDA members, upon request.
 1. Interviews with a licensed psychotherapist will be considered privileged.
 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.

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

- (e) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer
- (f) Care should be taken to preserve the integrity of any physical evidence present on the involved officer's equipment or clothing, such as blood or fingerprints, until investigators or lab personnel can properly retrieve it.
- (g) Each involved YCDA investigator shall be given reasonable paid administrative leave following an officer-involved shooting or death.

1004.16 CRIMINAL INVESTIGATION

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the District Attorney's Office to avoid duplicating efforts in related criminal investigations.

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

The following shall be considered for the involved officer:

- (a) YCDA supervisors and Chief Investigator personnel should not participate directly in any voluntary interview of YCDA investigators. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators (Government Code § 3303(i)). However, in order to maintain the integrity of each involved officer's statement, involved investigators shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including

administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

1004.18 REPORTS BY INVOLVED YCDA INVESTIGATORS

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

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

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

1004.20 AUDIO AND VIDEO RECORDINGS

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

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

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

1004.22 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of YCDA investigators to determine conformance with department policy. The investigation will be conducted under the supervision of the Chief Investigator and will be considered a confidential investigator personnel file.

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

- (a) Any investigator involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the investigator, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any investigator has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved investigator.
 - 1. If a further interview of the investigator is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved investigator shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved investigator has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the investigator's physical and psychological needs have been addressed before commencing the interview.
 - 2. If requested, the investigator shall have the opportunity to select an uninvolved representative to be present during the interview . However, in order to maintain the integrity of each individual investigator's statement, involved investigators shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
 - 3. Administrative interviews should be recorded by the investigator. The investigator being interviewed may also record the interview (Government Code § 3303(g)).
 - 4. The investigator shall be informed of the nature of the investigation. If an investigator refuses to answer questions, he/she should be given his/ her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The investigator shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.

5. The Chief Investigator shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

1004.24 CIVIL LIABILITY RESPONSE

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

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

1004.26 DEBRIEFING

Following an officer-involved shooting or death, the Yuba County District Attorney's Office should conduct both a critical incident/stress debriefing and a tactical debriefing.

1004.28 CRITICAL INCIDENT/STRESS DEBRIEFING

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

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

Attendance at the debriefing shall only include those members of the Department directly involved in the incident. Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory personnel.

1004.30 TACTICAL DEBRIEFING

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

1004.32 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the department representative responsible for each phase of the investigation. Releases will be available to the supervising Investigator, Chief Investigator and District Attorney in the event of inquiries from the media.

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

1004.34 REPORTING

If the death of an individual occurs in the Yuba County District Attorney's Office jurisdiction and qualifies to be reported to the state as a justifiable homicide or an in-custody death, the Chief Investigator will ensure that enough information is provided to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).

**Policy
1006**

SUBJECT:

Line-Of-Duty Deaths

1006.0 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Yuba County District Attorney's Office in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors.

The District Attorney may also apply some or all of this policy in situations where members are injured in the line of duty and the injuries are life-threatening.

1006.2 DEFINITIONS

Definitions related to this policy include:

Line-of-duty death - The death of a sworn member during the course of performing law enforcement-related functions while on- or off-duty, or a non-sworn member during the course of performing their assigned duties.

Survivors - Immediate family members of the deceased member, which can include spouse, children, parents, other next of kin or significant others. The determination of who should be considered a survivor for purposes of this policy should be made on a case-by-case basis given the individual's relationship with the member and whether the individual was previously designated by the deceased member.

1006.4 POLICY

It is the policy of the Yuba County District Attorney's Office to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

1006.6 INITIAL ACTIONS BY SUPERVISORY STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Chief

Investigator. Communication of information concerning the member and the incident should be restricted to avoid interception by the media or others (see the District Attorney section of this policy).

- (b) The Chief Investigator should ensure that notifications are made in accordance with the Officer-Involved Shootings and Major Incident Notification policies as applicable.
- (c) If the member has been transported to the hospital, the Chief Investigator or the designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.
- (d) The District Attorney or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison and the Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

1006.8 NOTIFYING SURVIVORS

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways. The District Attorney or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The District Attorney, Chief Deputy District Attorney, Chief Investigator or their authorized designee should select at least two persons, at least one of whom shall be a member of the department, to conduct notification of survivors.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.

- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital and should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other survivors, friends or clergy to support the survivors and to avoid leaving survivors alone after notification.
- (h) Assist the survivors with meeting childcare or other immediate needs.
- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.
- (j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Department Liaison.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivor's names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.
- (m) Inform the District Attorney or the authorized designee once survivor notifications have been made so that other Yuba County District Attorney's Office members may be apprised that survivor notifications are complete.

1006.10 OUT-OF-AREA NOTIFICATIONS

The Department Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the survivors can call for more information following the notification by the assisting agency.
- (b) The Department Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Department to pay travel expenses without the authorization of the District Attorney.

1006.12 NOTIFYING DEPARTMENT MEMBERS

Supervisors or members designated by the District Attorney are responsible for notifying department members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio. Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members who are off-duty or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support group, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

1006.14 LIAISONS AND COORDINATORS

The District Attorney or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including, but not limited to:

- (a) Department Liaison.
- (b) Hospital Liaison.
- (c) Survivor Support Liaison.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available department resources.

The District Attorney, in conjunction with Yuba County Victim Services and/or other county departments, will select additional persons to handle responsibilities related to critical incident stress management, funeral preparation and coordination, application for available benefits, and related funding and financial matters.

1006.16 DEPARTMENT LIAISON

The Department Liaison should be the Chief Deputy District Attorney or a member of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased member's survivors and the Department. The Department Liaison reports directly to the District Attorney. The Department Liaison's responsibilities include, but are not limited to:

- (a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests.
- (b) Establishing contact with survivors within 24 hours of the incident and providing them contact information.
- (c) Advising survivors of the other liaison and coordinator positions and their roles and responsibilities.
- (d) Identifying locations that will accommodate a law enforcement funeral and presenting the options to the appropriate survivors, who will select the location.
- (e) Coordinating all official law enforcement notifications and arrangements.
- (f) Making necessary contacts for authorization to display flags at half-mast.
- (g) Ensuring that department members are reminded of appropriate information-sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (h) Coordinating security checks of the member's residence as necessary and reasonable.
- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

1006.18 HOSPITAL LIAISON

The Hospital Liaison should work with hospital personnel to:

- (a) Arrange for appropriate and separate waiting areas for:
1. The survivors and others whose presence is requested by the survivors.
 2. Department members and friends of the deceased member.
 3. Media personnel.
- (b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's survivors or Yuba County District Attorney's Office members (except for members who may be guarding the suspect).
- (c) Ensure that survivors receive timely updates regarding the member before information is released to others.
- (d) Arrange for survivors to have private time with the member, if requested.
1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
 2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.
- (f) If applicable, explain to the survivors why an autopsy may be needed.
- (g) Ensure hospital bills are directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include, but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting his/her actions at the conclusion of his/her duties.

1006.20 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the District Attorney in consultation with the Chief Investigator and Chief Deputy District Attorney.

The following should be considered when selecting the Survivor Support Liaison:

- (a) The liaison should be an individual the survivors know and with whom they are comfortable working.
- (b) If the survivors have no preference, the selection may be made from names recommended by the deceased member's supervisor and/or coworkers. The deceased member's partner or close friends may not be the best selections for this assignment because the emotional connection to the member or survivors may impair their ability to conduct adequate liaison duties.
- (c) The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include, but are not limited to:

- (a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes and other locations, as appropriate.
- (b) Communicating with the Department Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (e) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (f) Returning the deceased member's personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:
 - 1. Items should not be delivered to the survivors until they are ready to receive the items.
 - 2. Items not retained as evidence should be delivered in a clean, unmarked box.

3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
 4. The return of some personal effects may be delayed due to ongoing investigations.
- (g) Assisting with the return of department-issued equipment that may be at the deceased member's residence.
1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.
- (h) Working with Victim Services to ensure that survivors have access to available counseling services.
- (i) Coordinating with the department's District Attorney ([PIO]) to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the District Attorney section of this policy).
- (j) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal and administrative investigations.
- (k) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
- (l) Introducing survivors to prosecutors, victim's assistance personnel and other involved personnel as appropriate.
- (m) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, and special support during holidays).
- (n) Inviting survivors to department activities, memorial services or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

1006.22 DISTRICT ATTORNEY

In the event of a line-of-duty death, the District Attorney or designee should be the department's contact point for the media and act as the PIO. As such, the PIO should coordinate with the Department Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Ensure that department members are instructed to direct any media inquiries to the PIO.
- (c) Prepare necessary press releases.
 - 1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
 - 2. Ensure that important public information is disseminated, such as information on how the public can show support for the Department and deceased member's survivors.
- (d) Arrange for community and media briefings by the District Attorney or the authorized designee as appropriate.
- (e) Respond, or coordinate the response, to media inquiries.
- (f) If requested, assist the member's survivors with media inquiries. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.
- (g) Release information regarding memorial services and funeral arrangements to department members, other agencies and the media as appropriate.
- (h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's survivors have been notified. If the media has obtained identifying information for the deceased member prior to survivor notification, the PIO should request that the media withhold the information from release until proper notification can be made to survivors. The PIO should ensure that media are notified when survivor notifications have been made.

1006.24 INVESTIGATION OF THE INCIDENT

The District Attorney shall ensure that line-of-duty deaths are investigated thoroughly and may choose to use the investigation process outlined in the Officer-Involved Shootings Policy.

Partners, close friends or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

1006.26 NON-LINE-OF-DUTY DEATH

The District Attorney may authorize support services for the death of a member not occurring in the line of duty.