

CHIEF'S PREFACE

PREFACE

Honesty and integrity are the basic expectations of every Bureau of Investigation employee. Engrained in our tradition of professional law enforcement and trial support services, the Bureau remains committed to these basic principles. Excellence in Bureau services is achieved through the courteous and respectful treatment of others. Quality service and quality people are terms best describing what the Bureau is about. To guide and ensure this culture of realistic expectations, the District Attorney's Office Bureau of Investigation maintains a Manual of Personnel Policies and Procedures.

PURPOSE

The purpose of this manual is to provide a structure of practical guidelines, expectations, procedures, and policies for all District Attorney's Office employees assigned to the Bureau of Investigation. Providing quality and responsive investigative services requires the understanding and cooperation of our employees. To achieve this purpose, this manual provides different kinds of ideas. It speaks to Administrative Policy; Chain of Command; Employee Conduct, and Operational Policy and Procedure. As Bureau employees, you are expected to be knowledgeable about the content of this manual and especially with the role or particular job you are performing. The policies and procedures in this manual supersede any previous policies and procedures.

LAW ENFORCEMENT CODE OF ETHICS

As a law enforcement officer, my fundamental duty is to serve the community; 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 to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law 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, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

MISSION STATEMENT

The mission of the Office of the District Attorney of Amador County is to enhance public safety and welfare and create a sense of security in the community through the vigorous enforcement of criminal and civil laws in a just, honest, efficient, and ethical manner.



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Chapter 1 - Law Enforcement Role and Authority

Law Enforcement Authority

100.1 PURPOSE AND SCOPE

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

100.2 POLICY

It is the policy of the Bureau to limit its members to only exercise the authority granted to them by law.

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

100.3 PEACE OFFICER POWERS

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

100.3.1 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE AMADOR COUNTY DISTRICT ATTORNEY'S OFFICE BUREAU OF INVESTIGATION

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

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

100.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE AMADOR COUNTY DISTRICT ATTORNEY'S OFFICE BUREAU OF INVESTIGATION

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

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

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- (b) When the investigator has probable cause to believe the person has committed a misdemeanor in the presence of the investigator and the investigator reasonably believes there is immediate danger to person or property or of escape.
- (c) When the investigator has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the investigator such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.
- (d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.
- (e) In compliance with an arrest warrant.

On-duty arrests will not generally be made outside the jurisdiction of this bureau except in cases of hot or fresh pursuit, while following up on crimes committed within the County, or while assisting another agency.

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

100.3.3 DELIVERY TO NEAREST MAGISTRATE

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

100.3.4 TIME OF MISDEMEANOR ARRESTS

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

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

100.3.5 OREGON AUTHORITY

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

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- (a) In response to a request for law enforcement assistance initiated by an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police.
- (b) In response to a reasonable belief that emergency law enforcement assistance is necessary to preserve life, and circumstances make it impractical for Oregon law enforcement officials to formally request assistance.
- (c) For the purpose of assisting Oregon law enforcement officials with emergency assistance in response to criminal activity, traffic accidents, emergency incidents or other similar public safety situations, regardless of whether an Oregon law enforcement official is present at the scene of the incident.

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

Whenever practicable, investigators should seek permission from a bureau supervisor before entering Oregon to provide law enforcement services. As soon as practicable, investigators exercising law enforcement authority in Oregon shall submit any appropriate written reports concerning the incident to the Oregon agency having primary jurisdiction over the area in which the incident occurred.

100.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

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

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

100.5 CONSTITUTIONAL REQUIREMENTS

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

Chief Executive Officer

101.1 PURPOSE AND SCOPE

Article 11 § 1(b) of the California State Constitution provides that the Legislature must provide each county, currently 58 in all, with an elected district attorney. Elections for the office of district attorney are held every four years at the same time as elections for the Governor, with the exception of Los Angeles and San Francisco counties. Candidates for the office must fulfill the educational requirements to practice law in California before running for election. Previous experience as a prosecutor is not required. Elected district attorneys serve four-year terms and are eligible for reelection.

By law, the district attorney is the chief law enforcement officer in the county. While a district attorney's duties are not limited to criminal prosecution, California Government Code § 26500 provides that the district attorney's most essential duty is investigating and prosecuting criminal offenses on behalf of the People.

101.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

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

101.1.2 DISTRICT ATTORNEY CANDIDATE REQUIREMENTS

Prior to filing for the office of District Attorney, any candidate shall at minimum meet the requirements of Government Code § 24002.

Oath of Office

102.1 PURPOSE AND SCOPE

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

102.2 POLICY

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

102.3 OATH OF OFFICE

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

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

102.4 MAINTENANCE OF RECORDS

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

Policy Manual

103.1 PURPOSE AND SCOPE

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

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

103.2 POLICY

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

103.2.1 DISCLAIMER

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

103.3 AUTHORITY

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

103.4 DEFINITIONS

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

Adult - Any person 18 years of age or older.

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Brady information - Information known or possessed by the Amador County District Attorney's Office that is both favorable and material to the current prosecution or defense of a criminal defendant.

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

CHP- The California Highway Patrol.

CFR - Code of Federal Regulations.

County -County of Amador.

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

Bureau - The Amador County District Attorney's Office Bureau of Investigation.

DMV - The Department of Motor Vehicles.

Employee - Any person employed by the Bureau.

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

Juvenile- Any person under the age of 18 years.

MOU - Memorandum of Understanding between Amador County and the employee bargaining units and/or allied agencies.

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

May - Indicates a permissive, discretionary or conditional action.

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

- Full- and part-time employees
- Sworn peace officers
- Non-sworn employees
- Volunteers

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

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

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

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

Shall or will - Indicates a mandatory action.

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

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Supervisor - A person in a position of authority that may include responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward or discipline of other bureau members, directing the work of other members or having the authority to adjust grievances. The supervisory exercise of authority may not be merely routine or clerical in nature but requires the use of independent judgment.

The term "supervisor" may also include any person (e.g., investigator-in-charge, lead or senior worker) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

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

USC - United States Code.

103.5 ISSUING THE POLICY MANUAL

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

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

103.6 PERIODIC REVIEW OF THE POLICY MANUAL

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

103.7 REVISIONS TO POLICIES

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

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

The Chief Investigator will ensure that members under his/her command are aware of any Policy Manual revision.

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

Law Enforcement Code of Ethics

104.1 PURPOSE AND SCOPE

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

104.2 POLICY

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

104.3 LAW ENFORCEMENT CODE OF ETHICS

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

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

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

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

104.3.1 OBJECTION TO RELIGIOUS AFFIRMATION

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

Chapter 2 - Organization and Administration

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

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

200.2 COMMAND PROTOCOL

200.2.1 SUCCESSION OF COMMAND

The Chief Investigator exercises command over all personnel in the Bureau. During planned absences the Chief Investigator will designate the Supervising Investigator to serve as the acting Chief Investigator.

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

- (a) Senior-most Investigator

200.2.2 UNITY OF COMMAND

The principles of unity of command ensure efficient supervision and control within the Bureau. Generally, each employee shall be accountable to one supervisor at any time for a given assignment or responsibility. Except where specifically delegated authority may exist by policy or special assignment (ACCNET), any supervisor may temporarily direct any subordinate if an operational necessity exists.

200.2.3 ORDERS

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

General Orders

201.1 PURPOSE AND SCOPE

General Orders establish an interdepartmental communication that may be used by the Chief Investigator to make immediate changes to policy and procedure consistent with the current Memorandum of Understanding and as permitted by Government Code § 3500 et seq. General Orders will immediately modify or change and supersede sections of this manual to which they pertain.

201.1.1 GENERAL ORDER PROTOCOL

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

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

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

201.2 RESPONSIBILITIES

201.2.1 STAFF

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

201.2.2 CHIEF INVESTIGATOR

The Chief Investigator shall issue all General Orders.

201.3 ACCEPTANCE OF GENERAL ORDERS

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

Emergency Management Plan

202.1 PURPOSE AND SCOPE

The County has prepared an Emergency Management Plan for use by all employees in the event of a major disaster or other emergency event. The plan provides for a strategic response by all employees and assigns specific responsibilities in the event that the plan is activated (Government Code § 8610).

202.2 ACTIVATING THE EMERGENCY PLAN

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

202.2.1 RECALL OF PERSONNEL

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

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

202.3 LOCATION OF THE PLAN

The Emergency Management Plan is available in Administration and the Supervising Investigator's office. All supervisors should familiarize themselves with the Emergency Management Plan. The Administration supervisor should ensure that bureau personnel are familiar with the roles police personnel will play when the plan is implemented.

202.4 UPDATING OF MANUALS

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

Training

203.1 PURPOSE AND SCOPE

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

203.2 PHILOSOPHY

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

203.3 OBJECTIVES

The objectives of the Training Program are to:

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

203.4 TRAINING PLAN

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

203.5 TRAINING NEEDS ASSESSMENT

The Investigations Bureau will conduct an annual training-needs assessment of the Bureau. The needs assessment will be reviewed by the Chief Investigator. Upon approval by the Chief Investigator, the needs assessment will form the basis for the training plan for the fiscal year.

203.6 TRAINING PROCEDURES

- (a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:
 1. Court appearances
 2. First choice vacation

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3. Sick leave
 4. Physical limitations preventing the employee's participation.
 5. Emergency situations
- (b) When an employee is unable to attend mandatory training, that employee shall:
1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training.
 2. Document his/her absence in a memorandum to his/her supervisor.
 3. Make arrangements through his/her supervisor and the Supervising Investigator to attend the required training on an alternate date.

203.7 POLICY

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

203.8 SUPERVISING INVESTIGATOR

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

203.8.1 TRAINING RESTRICTION

The Supervising Investigator is responsible for establishing a process to identify investigators who are restricted from training other investigators for the time period specified by law because of a sustained use of force complaint (Government Code § 7286(b)).

Electronic Mail

204.1 PURPOSE AND SCOPE

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

204.2 EMAIL RIGHT OF PRIVACY

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

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

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

204.3 PROHIBITED USE OF EMAIL

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

Email messages addressed to the entire bureau are only to be used for official business related items that are of particular interest to all users. Personal advertisements are not acceptable.

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

204.4 EMAIL RECORD MANAGEMENT

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

Electronic Mail

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

Staffing Levels

205.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that proper supervision is available. The Bureau intends to balance the employee's needs against the need to have flexibility and discretion in using personnel to meet operational needs. While balance is desirable, the paramount concern is the need to meet operational requirements of the Bureau.

205.2 MINIMUM STAFFING LEVELS

The Supervising Investigator will ensure that at least two investigators are scheduled during each work day unless previously authorized by a supervisor.,

Retiree Concealed Firearms

206.1 PURPOSE AND SCOPE

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

206.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to provide identification cards to qualified retired investigators as provided in this policy.

206.3 LEOSA

The Chief Investigator may issue an identification card for LEOSA purposes to any qualified retired investigator of this bureau who (18 USC § 926C(c)):

- (a) Separated from service in good standing from the Amador County District Attorney's Office as an investigator.
- (b) Before such separation, had regular employment as a law enforcement officer for an aggregate of 10 years or more or, if employed as a law enforcement officer for less than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by the Amador County District Attorney's Office.
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with the Amador County District Attorney's Office where the investigator acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.
- (e) Is not prohibited by federal law from receiving or possessing a firearm.

206.3.1 LEOSA IDENTIFICATION CARD FORMAT

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

If the Amador County District Attorney's Office Bureau of Investigation qualifies the retired investigator, the LEOSA identification card or separate certification should indicate the date the retired investigator was tested or otherwise found by the Chief Investigator to meet the active duty standards for qualification to carry a firearm.

206.3.2 AUTHORIZATION

Any qualified retired investigator, may carry a concealed firearm under 18 USC § 926C when he/she is:

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

Retiree Concealed Firearms

1. An indication from the person's former law enforcement agency that he/she has, within the past year, been tested or otherwise found by the law enforcement agency to meet agency-established active duty standards for qualification in firearms training to carry a firearm of the same type as the concealed firearm.
2. A certification, issued by either the state in which the person resides or by a certified firearms instructor who is qualified to conduct a firearms qualification test for active duty law enforcement officers within that state, indicating that the person has, within the past year, been tested or otherwise found to meet the standards established by the state or, if not applicable, the standards of any agency in that state.
 - (b) Not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
 - (c) Not prohibited by federal law from receiving a firearm.
 - (d) Not in a location prohibited by California law or by a private person or entity on his/her property if such prohibition is permitted by California law.

206.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE

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

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

206.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT

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

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

Retiree Concealed Firearms

206.5 RETIRED INVESTIGATOR RESPONSIBILITIES

A retired investigator with a card issued under this policy shall immediately notify the Chief Investigator of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order, in accordance with the Reporting of Employee Convictions policy.

206.5.1 RESPONSIBILITIES UNDER LEOSA

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

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

206.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT

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

- (a) Qualify annually with the approved firearm(s) at a course and range approved by the Rangemaster at the retired investigator's expense.
- (b) Remain subject to all applicable Amador County District Attorney's Office policies and federal, state and local laws.
- (c) Not engage in conduct that compromises public safety.
- (d) Only be authorized to carry a concealed firearm inspected and approved by the Rangemaster or approved armorer.

206.6 DENIAL, SUSPENSION OR REVOCATION OF A LEOSA IDENTIFICATION CARD

A LEOSA identification card may be denied or revoked upon a showing of good cause as determined by the Chief Investigator. In the event that an identification card is denied, suspended or revoked, the retired investigator may request a review by the Chief Investigator. The decision of the Chief Investigator is final.

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

A CCW endorsement under Penal Code § 25470 for any investigator retired from the Amador County District Attorney's Office may be denied or revoked only upon a showing of good cause. The CCW endorsement may be immediately and temporarily revoked by the Chief Investigator when the conduct of a retired investigator compromises public safety.

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- (a) In the event that a CCW endorsement is initially denied, the retired investigator shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.
- (b) Prior to revocation of any CCW endorsement, the Bureau shall provide the affected retiree with written notice of a hearing by either personal service or first class mail, postage prepaid, return receipt requested to the retiree's last known address (Penal Code § 26315).
 - 1. The retiree shall have 15 days from the date of service to file a written request for a hearing.
 - 2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).
 - 3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.
- (c) A hearing for the denial or revocation of any CCW endorsement shall be conducted before a hearing board composed of three members, one selected by the Amador County District Attorney's Office, one selected by the retiree or his/her employee organization and one selected jointly (Penal Code § 26320).
 - 1. The decision of such hearing board shall be binding on the Bureau and the retiree.
 - 2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Bureau will then reissue a new identification card which shall be stamped "No CCW Privilege."
- (d) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the Chief Investigator or his/her designee as soon as practicable. The Chief Investigator or his/her designee should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.
 - (a) Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).
 - (b) The Supervising Investigator should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief Investigator.
 - (c) The personal and written notification should be as follows:
 - (a) The retiree's CCW endorsement is immediately and temporarily suspended.
 - (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.

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- (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
- (d) In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Supervising Investigator should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Supervising Investigator may request that a law enforcement officer from that agency act as the agent of the Amador County District Attorney's Office to deliver the written notification.

206.8 FIREARM QUALIFICATIONS

The Rangemaster shall provide retired investigators of the Amador County District Attorney's Office an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the date of the qualification. The Rangemaster will maintain a record of the qualifications and weapons used.

Chapter 3 - General Operations

Use of Force

300.1 PURPOSE AND SCOPE

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

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques and Conducted Energy Device policies.

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

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

Feasible - Reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the investigator or another person (Government Code § 7286(a)).

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

Serious bodily injury - A serious impairment of physical condition, including but not limited to the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code § 243(f)(4)).

Totality of the circumstances - All facts known to the investigator at the time, including the conduct of the officer and the subject leading up to the use of force (Penal Code § 835a).

300.2 POLICY

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

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

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The Amador County District Attorney's Office recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting investigators with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

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

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

300.2.2 FAIR AND UNBIASED USE OF FORCE

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

300.2.3 DUTY TO REPORT EXCESSIVE FORCE

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

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

300.2.4 FAILURE TO INTERCEDE

An investigator who has received the required training on the duty to intercede and then fails to act to intercede when required by law, may be disciplined in the same manner as the investigator who used force beyond that which is necessary (Government Code § 7286(b)).

300.3 USE OF FORCE

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

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

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

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appropriate use of force in each incident. Investigators may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

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

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

300.3.1 USE OF FORCE TO EFFECT AN ARREST

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

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

- (a) The apparent immediacy and severity of the threat to investigators or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the investigator at the time (Penal Code § 835a).
- (c) Investigator/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of investigators available vs. subjects).
- (d) The conduct of the involved investigator leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with investigator commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.

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

300.3.3 PAIN COMPLIANCE TECHNIQUES

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

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

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

300.3.4 RESTRICTIONS ON THE USE OF CAROTID CONTROL HOLD

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

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300.3.5 USE OF FORCE TO SEIZE EVIDENCE

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

300.3.6 ALTERNATIVE TACTICS - DE-ESCALATION

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

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

In addition, when reasonable, investigators should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)). Such alternatives may include but are not limited to:

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

300.3.7 RESTRICTIONS ON THE USE OF A CHOKE HOLD

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

300.3.8 ADDITIONAL RESTRICTIONS

Terms such as "positional asphyxia," "restraint asphyxia," and "excited delirium" continue to remain the subject of debate among experts and medical professionals, are not universally recognized medical conditions, and frequently involve other collateral or controlling factors such as narcotics or alcohol influence, or pre-existing medical conditions. While it is impractical to restrict an investigator's use of reasonable control methods when attempting to restrain a combative individual, investigators are not authorized to use any restraint or transportation method which might unreasonably impair an individual's breathing or respiratory capacity for a period beyond

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the point when the individual has been adequately and safely controlled. Once controlled, the individual should be placed into a recovery position (e.g., supine or seated) and monitored for signs of medical distress (Government Code § 7286.5).

300.4 DEADLY FORCE APPLICATIONS

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

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

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

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

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

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

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and may involve additional considerations and risks. When feasible, investigators should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An investigator should only discharge a firearm at a moving vehicle or its occupants when the investigator reasonably believes there are no other reasonable means available to avert

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the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the investigator or others (Government Code § 7286(b)).

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

300.4.2 DISPLAYING OF FIREARMS

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

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

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

300.5 REPORTING THE USE OF FORCE

Any use of force by a member of this bureau shall be documented promptly, completely, and accurately in an appropriate report, depending on the nature of the incident. The investigator should articulate the factors perceived and why he/she believed the use of force was reasonable under the circumstances. To collect data for purposes of training, resource allocation, analysis, and related purposes, the Bureau may require the completion of additional report forms, as specified in bureau policy, procedure, or law. See the Report Preparation Policy for additional circumstances that may require documentation.

300.5.1 NOTIFICATION TO SUPERVISORS

Any use of force by an investigator shall be reported immediately to a supervisor, including but not limited to the following circumstances (Penal Code § 832.13):

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

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- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

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

300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

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

300.6 MEDICAL CONSIDERATION

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

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

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

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

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (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.

See the Medical Aid and Response Policy for additional guidelines.

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300.7 SUPERVISOR RESPONSIBILITY

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

- (a) Obtain the basic facts from the involved investigators. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
- (b) Ensure that any injured parties are examined and treated.
- (c) When possible, separately obtain a recorded interview with the subject upon whom force was applied.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.
- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation.
 - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and initiate an administrative investigation if there is a question of policy non-compliance or if for any reason further investigation may be appropriate.

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

300.7.1 SUPERVISING INVESTIGATOR RESPONSIBILITY

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

300.8 TRAINING

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

Subject to available resources, the Supervising Investigator should ensure that investigators receive periodic training on de-escalation tactics, including alternatives to force.

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

- (a) Guidelines regarding vulnerable populations, including but not limited to children, elderly persons, pregnant individuals, and individuals with physical, mental, and developmental disabilities.

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- (b) Training courses required by and consistent with POST guidelines set forth in Penal Code § 13519.10.

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

300.9 USE OF FORCE ANALYSIS

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

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

300.10 USE OF FORCE COMPLAINTS

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

300.11 POLICY REVIEW

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

300.12 POLICY AVAILABILITY

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

300.13 PUBLIC RECORDS REQUESTS

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

Handcuffing and Restraints

301.1 PURPOSE AND SCOPE

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

301.2 POLICY

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

301.3 USE OF RESTRAINTS

Only members who have successfully completed Amador County District Attorney's Office Bureau of Investigation-approved training on the use of restraint devices described in this policy are authorized to use these devices.

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

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

301.3.1 RESTRAINT OF DETAINEES

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

301.3.2 RESTRAINT OF PREGNANT PERSONS

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

Handcuffing and Restraints

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

301.3.3 RESTRAINT OF JUVENILES

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

301.3.4 NOTIFICATIONS

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

301.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Bureau. Investigators should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, investigators should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations, handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the person or may cause unreasonable discomfort due to the person's size, investigators should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

301.5 APPLICATION OF SPIT HOODS

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

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

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

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

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

301.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

301.7 APPLICATION OF LEG RESTRAINT DEVICES

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

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

- (a) Whether the investigator or others could be exposed to injury due to the assaultive or resistant behavior of a person.
- (b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting investigator while handcuffed, kicking at objects or investigators).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

301.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

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

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

Handcuffing and Restraints

- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the investigator arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.
- (c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an investigator while in the leg restraint. The investigator should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The investigator should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.
- (f) When transported by emergency medical services, the restrained person should be accompanied by an investigator when requested by medical personnel. The transporting investigator should describe to medical personnel any unusual behaviors or other circumstances the investigator reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

301.8 REQUIRED DOCUMENTATION

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

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

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

- (a) The factors that led to the decision to use restraints.
- (b) Supervisor notification and approval of restraint use.
- (c) The types of restraint used.
- (d) The amount of time the person was restrained.
- (e) How the person was transported and the position of the person during transport.
- (f) Observations of the person's behavior and any signs of physiological problems.
- (g) Any known or suspected drug use or other medical problems.

301.9 TRAINING

Subject to available resources, the Supervising Investigator should ensure that investigators receive periodic training on the proper use of handcuffs and other restraints, including:

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Bureau.
- (b) Response to complaints of pain by restrained persons.

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- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

Control Devices and Techniques

302.1 PURPOSE AND SCOPE

This policy provides guidelines for the use and maintenance of control devices that are described in this policy.

302.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Amador County District Attorney's Office Bureau of Investigation authorizes investigators to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

302.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

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

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

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

302.4 RESPONSIBILITIES

302.4.1 SUPERVISING INVESTIGATOR RESPONSIBILITIES

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

302.4.2 RANGEMASTER RESPONSIBILITIES

The Rangemaster shall control the inventory and issuance of all control devices and shall ensure that all damaged, inoperative, outdated or expended control devices or munitions are properly disposed of, repaired or replaced.

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

302.4.3 USER RESPONSIBILITIES

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

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

302.5 BATON GUIDELINES

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

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

302.6 OLEORESIN CAPSICUM (OC) GUIDELINES

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

302.6.1 OC SPRAY

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

302.6.2 TREATMENT FOR OC SPRAY EXPOSURE

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

302.7 POST-APPLICATION NOTICE

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

302.8 KINETIC ENERGY PROJECTILE GUIDELINES

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

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302.8.1 DEPLOYMENT AND USE

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

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

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

- (a) The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions.
- (b) The suspect has made credible threats to harm him/herself or others.
- (c) The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or investigators.
- (d) There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.

302.8.2 DEPLOYMENT CONSIDERATIONS

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

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

A verbal warning of the intended use of the device should precede its application, unless it would otherwise endanger the safety of investigators or when it is not practicable due to the circumstances. The purpose of the warning is to give the individual a reasonable opportunity to voluntarily comply and to warn other investigators and individuals that the device is being deployed.

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

The need to immediately incapacitate the subject must be weighed against the risk of causing serious injury or death. The head and neck should not be intentionally targeted, except when the

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investigator reasonably believes the suspect poses an imminent threat of serious bodily injury or death to the investigator or others.

302.8.3 SAFETY PROCEDURES

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

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

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

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

302.9 TRAINING FOR CONTROL DEVICES

The Supervising 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 monitored and documented by a certified, control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the investigator's training file.
- (c) Investigators who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an investigator cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the investigator will be restricted from carrying the control device and may be subject to discipline.

302.10 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.

Officer-Involved Shootings and Deaths

303.1 PURPOSE AND SCOPE

The purpose of this policy is to establish policy and procedures for the investigation of an incident in which a person is injured or dies as the result of an officer-involved shooting or dies as a result of other action of an investigator.

In other incidents not covered by this policy, the Chief Investigator may decide that the investigation will follow the process provided in this policy.

303.2 POLICY

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

303.3 TYPES OF INVESTIGATIONS

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

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

303.4 CONTROL OF INVESTIGATIONS

Investigators from surrounding agencies may be assigned to work on the criminal investigation of officer-involved shootings and deaths. This may include at least one investigator from the agency that employs the involved officer.

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

303.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Amador County Sheriff's Office would control the investigation if the suspect's crime occurred in Amador County.

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

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303.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

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

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

303.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

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

303.5 INVESTIGATION PROCESS

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

303.5.1 UNINVOLVED INVESTIGATOR RESPONSIBILITIES

Upon arrival at the scene of an officer-involved shooting, the first uninvolved ACDA investigator will be the investigator-in-charge and will assume the responsibilities of a supervisor until properly relieved. This investigator should, as appropriate:

- (a) Secure the scene and identify and eliminate hazards for all those involved.
- (b) Take reasonable steps to obtain emergency medical attention for injured individuals.
- (c) Request additional resources from the Bureau or other agencies.
- (d) Coordinate a perimeter or pursuit of suspects.
- (e) Check for injured persons and evacuate as needed.
- (f) Brief the supervisor upon arrival.

303.5.2 SUPERVISOR RESPONSIBILITIES

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

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any ACDA investigator to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.

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2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Supervising Investigator and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional ACDA members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 1. Each involved ACDA investigator should be given an administrative order not to discuss the incident with other involved officers or ACDA members pending further direction from a supervisor.
 2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other investigators.

303.5.3 SUPERVISING INVESTIGATOR RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Supervising Investigator shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief Investigator or command from the lead investigating agency.

All outside inquiries about the incident shall be directed to the Supervising Investigator.

303.5.4 NOTIFICATIONS

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

- Chief Investigator
- District Attorney
- Chief Assistant District Attorney
- Civil liability response team
- Psychological/peer support personnel
- Chaplain
- Coroner (if necessary)
- Involved officer's agency representative (if requested)

303.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
- (a) Involved ACDA investigators shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.

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- (b) Requests from involved non-ACDA 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 Bureau to each involved ACDA investigator. A licensed psychotherapist may also be provided to any other affected ACDA members, upon request.
 - (a) Interviews with a licensed psychotherapist will be considered privileged.
 - (b) A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer. (Government Code § 8669.4).

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

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

303.5.6 NOTIFICATION TO DEPARTMENT OF JUSTICE

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

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

303.6 CRIMINAL INVESTIGATION

In the event the District Attorney's Office is responsible for the criminal investigation into the circumstances of any officer-involved shooting or death:

If available, investigative personnel from this bureau may be assigned to partner with investigators from outside agencies 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:

Officer-Involved Shootings and Deaths

- (a) The Chief Investigator and/or Supervising Investigator should not participate directly in any voluntary interview of ACDA 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.

303.6.1 REPORTS BY INVOLVED ACDA INVESTIGATORS

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

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

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

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

303.6.2 INVESTIGATIVE PERSONNEL

Once notified of an officer-involved shooting or death, it shall be the responsibility of the Supervising Investigator to assign appropriate investigative personnel to handle the investigation of related crimes. Bureau investigators will be assigned to work with investigators from non-involved agencies and may be assigned to separately handle the investigation of any related crimes not being investigated by the District Attorney's Office.

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All related bureau reports, except administrative and/or privileged reports, will be forwarded to the Supervising Investigator for approval. Privileged reports shall be maintained exclusively by members who are authorized such access. Administrative reports will be forwarded to the Chief Investigator.

303.6.2 WITNESS IDENTIFICATION AND INTERVIEWS

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

- (a) Identification of all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, investigators should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Bureau.
 - 1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.
- (c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

303.7 ADMINISTRATIVE INVESTIGATION

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

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

- (a) Any investigator involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from

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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 Chief Investigator/Supervising Investigator. The investigator may also record the interview (Government Code § 3303(g)).
 - 4. The investigator shall be informed of the nature of the investigation. If an investigator refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The investigator shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
 - 5. The Chief Investigator and/or Supervising Investigator shall compile all relevant information and reports necessary for the Bureau to determine compliance with applicable policies.
 - 6. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

303.8 CIVIL LIABILITY RESPONSE

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

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

Officer-Involved Shootings and Deaths

303.9 AUDIO AND VIDEO RECORDINGS

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

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

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

303.10 DEBRIEFING

Following an officer-involved shooting or death, the Amador County District Attorney's Office Bureau of Investigation should conduct both a critical incident/stress debriefing and a tactical debriefing.

303.10.1 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 Bureau directly involved in the incident, which can include support personnel (e.g., dispatchers, other non-sworn personnel). The debriefing shall be closed to the public and should be closed to all other members of the Amador County District Attorney's Office.

303.10.2 TACTICAL DEBRIEFING

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

303.11 MEDIA RELATIONS

Any media release should be prepared with input and concurrence from the Chief Investigator, Supervising Investigator, and the investigator responsible for each phase of the investigation.

Officer-Involved Shootings and Deaths

Releases will be available to the Supervising Investigator, Investigation Bureau Chief and District Attorney in the event of inquiries from the media.

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

Firearms

304.1 PURPOSE AND SCOPE

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

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 investigators who are authorized to carry firearms.

304.2 POLICY

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

304.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

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

All other weapons not provided by the Bureau, including but not limited to edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere by bureau policy, may not be carried by members in the performance of their official duties without the express authorization of the Chief Investigator. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

304.3.1 HANDGUNS

The authorized bureau-issued handgun is the Glock Model 45 9mm.

304.3.2 SHOTGUNS

The authorized bureau shotgun is the Remington.870.

When not deployed, the shotgun shall be properly secured in the armory.

304.3.3 PERSONALLY OWNED DUTY FIREARMS

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

- (a) The firearm shall be in good working order and shall not be modified from factory specifications.

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

304.3.4 AUTHORIZED SECONDARY HANDGUN

Investigators desiring to carry bureau or personally owned secondary handguns are subject to the following restrictions:

- (a) The handgun shall be in good working order and shall not be modified from factory specifications
- (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 investigator unless the handgun and ammunition are provided by the Bureau.
- (d) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.
- (e) The handgun shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.
- (f) Ammunition shall be the same as bureau issue. If the caliber of the handgun is other than bureau issue, the Chief Investigator
- (g) Prior to carrying the secondary handgun, investigators shall qualify under range supervision and thereafter shall qualify in accordance with the bureau qualification schedule. Investigators must demonstrate proficiency and safe handling, and that the handgun functions properly.
- (h) Investigators shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Rangemaster, who will maintain a list of the information.

304.3.5 AUTHORIZED OFF-DUTY FIREARMS

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

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

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- (a) The purchase of the personally owned firearm and ammunition shall be the responsibility of the investigator.
- (b) The firearm shall be carried concealed at all times and in such a manner as to prevent accidental unintentional cocking, discharge or loss of physical control.
- (c) It will be the responsibility of the investigator to submit the firearm to the Rangemaster for inspection prior to being personally carried. Thereafter the firearm shall be subject to periodic inspection by the Rangemaster.
- (d) Prior to carrying any off-duty firearm, the investigator shall demonstrate to the Rangemaster that he/she is proficient in handling and firing the firearm and that it will be carried in a safe manner.
- (e) The investigator will successfully qualify with the firearm prior to it being carried.
- (f) Investigators shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.
- (g) If an investigator desires to use more than one firearm while off-duty, he/she may do so, as long as all requirements set forth in this policy for each firearm are met.
- (h) Investigators shall only carry bureau-authorized ammunition.
- (i) When armed, Investigators shall carry their Amador County District Attorney's Office Bureau of Investigation identification cards under circumstances requiring possession of such identification.

304.3.6 AMMUNITION

Investigators shall carry only bureau-authorized ammunition. Investigators shall be issued fresh duty ammunition in the specified quantity for all bureau-issued firearms annually. Replacements for unserviceable or depleted ammunition issued by the Bureau shall be dispensed by the Rangemaster when needed, in accordance with established policy.

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

304.4 EQUIPMENT

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

304.4.1 REPAIRS OR MODIFICATIONS

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

Firearms that are the property of the Bureau or personally owned firearms that are approved for bureau use may be repaired or modified only by a person who is bureau-approved and certified

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as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Rangemaster.

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

304.4.2 HOLSTERS

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

304.5 SAFE HANDLING, INSPECTION AND STORAGE

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

- (a) Investigators shall not unnecessarily display or handle any firearm.
- (b) Investigators shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Investigators shall not dry fire or practice quick draws except as instructed by the Rangemaster or other firearms training staff.
- (c) Investigators shall not use any automatic firearm, heavy caliber rifle, gas or other type of chemical weapon or firearm from the armory, except with approval of a supervisor.
- (d) Any firearm authorized by the Bureau to be carried on- or off-duty that is determined by a investigator to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to a supervisor or the Rangemaster for inspection and repair. Any firearm deemed in need of repair or service by the Rangemaster will be immediately removed from service. If the firearm is the investigator's primary duty firearm, a replacement firearm will be issued to the investigator until the duty firearm is serviceable.

304.5.1 STORAGE AT HOME

Investigators 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. Investigators shall not permit bureau-issued firearms to be handled by anyone not authorized by the Bureau to do so. Investigators should be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

304.5.2 STORAGE IN VEHICLES

When leaving a handgun in an unattended vehicle, investigators shall ensure that it is locked in the trunk, or in a locked container that is placed out of view, or in a locked container that is permanently affixed to the vehicle's interior and not in plain view, or in a locked toolbox or utility box permanently affixed to the vehicle (Penal Code § 16850; Penal Code § 25140; Penal Code § 25452).

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If the vehicle does not have a trunk or a locked container, then the firearm should be locked within the center utility console that can be locked with a padlock, keylock, combination lock, or other similar locking device (Penal Code § 25140).

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

304.5.3 ALCOHOL AND DRUGS

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

304.6 FIREARMS TRAINING AND QUALIFICATIONS

All investigators who carry a firearm while on-duty are required to successfully complete training and qualify at least twice annually with their duty firearms. Investigators will qualify with off-duty and secondary firearms at least twice annually. Training and qualifications must be on an approved range course.

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

304.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

If any investigator fails to meet minimum standards for firearms training or qualification for any reason, including injury, illness, duty status or scheduling conflict, that investigator shall notify his/her 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.

Investigators who repeatedly fail to meet minimum standards may be subject to disciplinary action.

304.7 FIREARM DISCHARGE

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

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

- (a) If on-duty at the time of the incident, the investigator shall file a written report with the Chief Investigator or provide a recorded statement to investigators prior to the end of shift, unless otherwise directed.

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

304.7.1 DESTRUCTION OF ANIMALS

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

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

304.7.2 INJURED ANIMALS

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

304.7.3 WARNING AND OTHER SHOTS

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

304.8 RANGEMASTER DUTIES

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

The range shall remain operational and accessible to investigators during hours established by the Bureau.

The Rangemaster has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by investigators to verify proper operation. The Rangemaster has the authority to deem any bureau-issued or personally owned firearm unfit for service. The investigator will be responsible for all repairs to his/her personally owned firearm and it will not be returned to service until inspected by the Rangemaster.

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

The Rangemaster shall complete and submit to the Supervising Investigator documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the Bureau, a list of each investigator who completes the training. The Rangemaster should keep accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Supervising Investigator.

304.9 FLYING WHILE ARMED

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

- (a) Investigators wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the Bureau based on the law and published TSA rules.
- (b) Investigators must carry their Amador County District Attorney's Office Bureau of Investigation identification card, bearing the investigator's name, a full-face photograph, identification number, the investigator's signature and the signature of the District Attorney and must present this identification to airline officials when requested. The investigator should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).
- (c) The Amador County District Attorney's Office Bureau of Investigation must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the investigator's travel. If approved, TSA will send the Amador County District Attorney's Office Bureau of Investigation an NLETS message containing a unique alphanumeric identifier. The investigator must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief Investigator authorizing armed travel may also accompany the investigator. The letter should outline the investigator's need to fly armed, detail his/her itinerary, and include that the investigator has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Investigators must have completed the mandated TSA security training covering investigators flying while armed. The training shall be given by the bureau-appointed instructor.
- (f) It is the investigator's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.

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- (g) Any investigator flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The investigator must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Investigators should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Investigators flying armed shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

304.10 CARRYING FIREARMS OUT OF STATE

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

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

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

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

Vehicle Pursuits

305.1 PURPOSE AND SCOPE

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

305.1.1 DEFINITIONS

Blocking - A low-speed tactic where one or more authorized district attorney's office bureau emergency vehicles intentionally restrict the movement of a suspect vehicle, with the goal of containment or preventing a pursuit. Blocking is not boxing in or a roadblock.

Boxing-in - A tactic designed to stop a suspect's moving vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

Pursuit Intervention - An attempt to stop the suspect's ability to continue to flee in a vehicle through tactical application of technology, tire deflation devices, blocking or vehicle intercept, boxing-in, the PIT (known as Pursuit Intervention Technique or Precision Immobilization Technique), ramming, or roadblock procedures.

Pursuit Intervention Technique (PIT) - A low-speed tactic intentionally applied to cause the suspect vehicle to spin out and terminate the pursuit.

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

Roadblocks - A tactic designed to stop a suspect's vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the suspect's vehicle.

Tire deflation device - A device that extends across the roadway designed to puncture the tires of the pursued vehicle, sometimes referred to as spike strips.

Terminate - To discontinue a pursuit or stop chasing fleeing vehicles.

Trail - Following 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 vehicle will maintain sufficient distance from the pursuit vehicles so as to clearly indicate an absence of participation in the pursuit

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

305.2 INVESTIGATOR RESPONSIBILITIES

Vehicle pursuits shall only be conducted using authorized district attorney's office bureau emergency vehicles that are equipped with and displaying emergency lighting and sirens as

Vehicle Pursuits

required by Vehicle Code § 21055. Investigators are responsible for continuously driving with due regard and caution for the safety of all persons and property (Vehicle Code § 21056).

305.2.1 WHEN TO INITIATE A PURSUIT

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

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

- (a) The seriousness of the known or reasonably suspected crime and its relationship to community safety.
- (b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to investigators, innocent motorists, and others.
- (c) The safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones), and the speed of the pursuit relative to these factors.
- (d) The pursuing investigators' familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher supervisor, and the driving capabilities of the pursuing investigators under the conditions of the pursuit.
- (e) Whether weather, traffic, and road conditions unreasonably increase the danger of the pursuit when weighed against the risk of the suspect's escape.
- (f) Whether the identity of the suspect has been verified and whether there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.
- (g) The performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
- (h) Emergency lighting and siren limitations on unmarked district attorney's office bureau vehicles that may reduce visibility of the vehicle, such as visor or dash-mounted lights, concealable or temporary emergency lighting equipment, and concealed or obstructed siren positioning.
- (i) Suspect and investigator vehicle speeds.
- (j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders, hostages).
- (k) Availability of other resources such as air support or vehicle locator or deactivation technology.

305.2.2 WHEN TO TERMINATE A PURSUIT

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

Vehicle Pursuits

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

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

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

305.2.3 SPEED LIMITS

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

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

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

305.3 PURSUIT UNITS

When involved in a pursuit, unmarked district attorney's office emergency vehicles should be replaced by marked emergency vehicles whenever practicable

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

Vehicle Pursuits

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

305.3.1 UNMARKED VEHICLES

A distinctively marked patrol vehicle equipped with emergency overhead lighting should replace a district attorney's office unmarked vehicle as primary and/or secondary pursuit unit as soon as practical.

305.3.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT

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

305.3.3 PRIMARY UNIT RESPONSIBILITIES

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

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

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

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

Vehicle Pursuits

305.3.4 SECONDARY UNIT RESPONSIBILITIES

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

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

305.3.5 PURSUIT DRIVING

The decision to use specific driving tactics requires the same assessment of the factors the investigator considered when determining whether to initiate and/or terminate a pursuit. The following are tactics for units involved in the pursuit:

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

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305.3.6 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 information and assistance for the arrest of the suspects and reporting the incident.

305.3.7 AIR SUPPORT ASSISTANCE

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

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

305.3.8 UNITS NOT INVOLVED IN THE PURSUIT

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

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

305.4 SUPERVISORY CONTROL AND RESPONSIBILITIES

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

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

- (a) Immediately notifying involved unit and the dispatcher of supervisory presence and ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit.
- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the required number of units are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in the supervisor's judgment, it is unreasonable to continue the pursuit under the guidelines of this policy.

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- (f) Ensuring that assistance from air support, canines, or additional resources is requested, if available and appropriate.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring that the Supervising Investigator is notified of the pursuit as soon as practicable.
- (i) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this bureau.
- (j) Controlling and managing Amador County District Attorney's Office Bureau of Investigation units when a pursuit enters another jurisdiction.
- (k) Preparing a post-pursuit review and documentation of the pursuit.
 - 1. Supervisors should initiate follow up or additional review when appropriate.

305.4.1 SUPERVISING INVESTIGATOR RESPONSIBILITIES

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

The Supervising Investigator shall review all pertinent reports for content and forward to the Bureau Chief.

305.5 DISPATCH

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

305.5.1 LOSS OF PURSUED VEHICLE

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

305.6 INTER-JURISDICTIONAL CONSIDERATIONS

When a pursuit enters another agency's jurisdiction, the primary investigator or supervisor, taking into consideration distance traveled, unfamiliarity with the area and other pertinent facts, should determine whether to request the other agency to assume the pursuit. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary investigator or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether such jurisdiction is expected to assist.

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305.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Investigators will relinquish control of the pursuit when another agency has assumed the pursuit, unless the continued assistance of the Bureau is requested by the agency assuming the pursuit. Upon relinquishing control of the pursuit, the involved investigators may proceed, with supervisory approval, to the termination point of the pursuit to assist in the investigation. The supervisor should coordinate such assistance with the assuming agency and obtain any information that is necessary for any reports. Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific.

305.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION

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

When a request is made for this bureau to assist or take over a pursuit that has entered the jurisdiction, the supervisor should consider:

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

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

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

In the event that a pursuit from another agency terminates within this jurisdiction, investigators should provide appropriate assistance to officers from the allied agency including but not limited to scene control, coordination and completion of supplemental reports, and any other reasonable assistance requested or needed.

305.7 WHEN PURSUIT INTERVENTION IS AUTHORIZED

Whenever practicable, an investigator shall seek approval from a supervisor before employing any intervention to stop the pursued vehicle. In deciding whether to use intervention tactics, investigators/supervisors should balance the risks of allowing the pursuit to continue with the

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potential hazards to the public arising from the use of each tactic, the investigators, and persons in or on the pursued vehicle to determine which, if any, intervention tactic may be reasonable.

305.7.1 USE OF FIREARMS

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

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

305.7.2 INTERVENTION STANDARDS

Any intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the investigators, the public, or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of force, including deadly force, and subject to the policies guiding such use. Investigators should consider these facts and requirements prior to deciding how, when, where, and if an intervention tactic should be employed.

- (a) Blocking should only be used after giving consideration to the following:
 - 1. The technique should only be used by investigators who have received training in the technique.
 - 2. The need to immediately stop the suspect vehicle or prevent it from leaving reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, investigators, or other members of the public.
 - 3. It reasonably appears the technique will contain or prevent the pursuit.
- (b) The PIT should only be used after giving consideration to the following:
 - 1. The technique should only be used by investigators who have received training in the technique, including speed restrictions.
 - 2. Supervisory approval should be obtained before using the technique.
 - 3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, investigators, or other members of the public.
 - 4. It reasonably appears the technique will terminate or prevent the pursuit.
- (c) Ramming a fleeing vehicle should only be done after giving consideration to the following:
 - 1. Supervisory approval should be obtained before using the technique.
 - 2. The need to immediately stop the suspect vehicle reasonably appears to substantially outweigh the risks of injury or death to occupants of the suspect vehicle, investigators, or other members of the public.
 - 3. It reasonably appears the technique will terminate or prevent the pursuit.

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4. Ramming may be used only under circumstances when deadly force would be authorized.
 5. Ramming may be used when all other reasonable alternatives have been exhausted or reasonably appear ineffective.
- (d) Before attempting to box a suspect vehicle during a pursuit the following should be considered:
1. The technique should only be used by investigators who have received training in the technique.
 2. Supervisory approval should be obtained before using the technique.
 3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, investigators, or other members of the public.
 4. It reasonably appears the technique will terminate or prevent the pursuit.
- (e) Tire deflation devices should only be used after considering the following:
1. Tire deflation devices should only be used by investigators who have received training in their use.
 2. Supervisory approval should be obtained before using tire deflation devices.
 3. The need to immediately stop the suspect vehicle reasonably appears to outweigh the risks of injury or death to occupants of the suspect vehicle, investigators, or other members of the public.
 4. It reasonably appears the use will terminate or prevent the pursuit.
 5. Tire deflation devices should not be used when the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, except in extraordinary circumstances.
 6. Due to the increased risk to investigators deploying tire deflation devices, such deployment should be communicated to all involved personnel.
- (f) Roadblocks should only be used after considering the following:
1. Roadblocks should only be used by investigators who have received training in their use.
 2. Supervisory approval should be obtained before using the technique.
 3. The need to immediately stop the suspect vehicle reasonably appears to substantially outweigh the risks of injury or death to occupants of the suspect vehicle, investigators, or other members of the public.
 4. It reasonably appears the technique will terminate or prevent the pursuit. Roadblocks may be used only under circumstances when deadly force would be authorized.
 5. Roadblocks may be used when all other reasonable alternatives have been exhausted or reasonably appear ineffective.

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305.7.3 CAPTURE OF SUSPECTS

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

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

305.8 REPORTING REQUIREMENTS

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

- (a) The primary investigator should complete appropriate crime/arrest reports.
- (b) The Supervising 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 primary investigator should complete as much of the required information on the form as is known and forward the report to the Supervising Investigator for review and distribution.
- (c) After first obtaining the available information, the involved, or if unavailable on-duty, field supervisor shall promptly complete a memorandum, briefly summarizing the pursuit to the Chief Investigator.. This log or memorandum should include, at a minimum:
 1. Date and time of pursuit.
 2. Initial reason and circumstances surrounding the pursuit.
 3. Length of pursuit in distance and time, including the starting and termination points.
 4. Involved units and investigators.
 5. Alleged offenses.
 6. Whether a suspect was apprehended, as well as the means and methods used.
 7. Any use of force that occurred during the vehicle pursuit.
 - (a) Any use of force by a member should be documented in the appropriate report (See the Use of Force Policy).
 8. Any injuries and/or medical treatment.
 9. Any property or equipment damage.
 10. Name of supervisor at scene or who handled the incident.
- (d) After receiving copies of reports, logs, and other pertinent information, the Chief Investigator or the authorized designee should conduct or assign the completion of a post-pursuit review.

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Annually, the Chief Investigator should direct a documented review and analysis of bureau vehicle pursuit reports to minimally include policy suitability, policy compliance, and training or equipment needs.

305.8.1 REGULAR AND PERIODIC PURSUIT TRAINING

The Supervising Investigator shall make available to all investigators initial and supplementary Police Officer Standard Training (POST) training on pursuits required by Penal Code § 13519.8, and no less than annual training addressing:

- (a) This policy.
- (b) The importance of vehicle safety and protecting the public.
- (c) The need to balance the known offense and the need for immediate capture against the risks to investigators and others (Vehicle Code § 17004.7(d)).

305.8.2 POLICY REVIEW

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

305.9 APPLICATION OF VEHICLE PURSUIT POLICY

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

305.10 POLICY

It is the policy of this bureau to balance the importance of apprehending suspects who unlawfully flee from law enforcement against the risks associated with vehicle pursuits.

Investigator Response to Calls

306.1 PURPOSE AND SCOPE

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

306.2 RESPONSE TO CALLS

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

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

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

306.3 REQUESTING EMERGENCY ASSISTANCE

Requests for emergency assistance should be limited to those situations where the involved personnel reasonably believe that there is an immediate threat to the safety of investigators, or assistance is needed to prevent imminent serious harm to a citizen. In any event, where a situation has stabilized and emergency response is not required, the requesting investigator shall immediately notify Dispatch.

If circumstances permit, the requesting investigator should give the following information:

- The unit number
- The location
- The reason for the request and type of emergency
- The number of units required

306.4 INITIATING CODE 3 RESPONSE

If an investigator believes a Code-3 response to any call is appropriate, the investigator shall immediately notify Dispatch. Should another investigator believe a Code-3 response is appropriate, Dispatch shall be notified and the Supervising Investigator or field supervisor will make a determination as to whether one or more investigators driving Code-3 is appropriate.

Investigator Response to Calls

306.5 RESPONSIBILITIES OF RESPONDING INVESTIGATORS

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

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 Dispatch. An investigator shall also discontinue the Code-3 response when directed by a supervisor.

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

306.6 SUPERVISORY RESPONSIBILITIES

Upon being notified that a Code-3 response has been initiated, the Supervising Investigator or the field supervisor shall verify the following:

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

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

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

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

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

Investigator Response to Calls

306.7 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 the Supervising Investigator, field supervisor, or Dispatch of the equipment failure so that another unit may be assigned to the emergency response.

Canines

307.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of canines to augment investigative services in the community, including but not limited to locating individuals and contraband and apprehending criminal offenders.

307.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation does not maintain a Canine Program. As a result, it is the policy of the Amador County District Attorney's Office Bureau of Investigation that teams of handlers and canines from allied agencies will be summoned as needed, to effectively and reasonably carry out legitimate law enforcement objectives. Members requesting the assistance of an allied agency canine team should be mindful that the responding team will be bound by their agency's policies, and not the policies of the Amador County District Attorney's Office Bureau of Investigation. Language contained in this policy that references what a handler/canine should or should not do, is presented for the edification of the requesting member, and is not binding upon the responding allied agency.

307.3 REQUESTS FOR CANINE TEAMS

Investigations Bureau members are encouraged to request the use of a canine when situations arise that require such a response. Requests for a canine team should be approved by the Supervising Investigator prior to summoning the affected allied agency.

307.4 APPREHENSION GUIDELINES

A canine may be used to locate and apprehend a suspect if the canine handler reasonably believes that the individual has committed, is committing, or is threatening to commit any serious offense and if any of the following conditions exist:

- (a) There is a reasonable belief the suspect poses an imminent threat of violence or serious harm to the public, any investigator, or the handler.
- (b) The suspect is physically resisting or threatening to resist arrest and the use of a canine reasonably appears to be necessary to overcome such resistance.
- (c) The suspect is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of investigators or the public.

It is recognized that situations may arise that do not fall within the provisions set forth in this policy. Such events require consideration of the totality of the circumstances and the use of an objective reasonableness standard applied to the decision to use a canine.

Absent a reasonable belief that a suspect has committed, is committing, or is threatening to commit a serious offense, mere flight from a pursuing investigator, without any of the above conditions, shall not serve as the basis for the use of a canine to apprehend a suspect.

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Use of a canine to locate and apprehend a suspect wanted for a lesser criminal offense than those identified above requires approval from the Supervising Investigator. Absent a change in circumstances that presents an imminent threat to investigators, the canine or the public, such canine use should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual.

In all applications, once the suspect has been located and no longer reasonably appears to present a threat or risk of escape, the handler should secure the canine as soon as it becomes reasonably practicable.

If the canine has apprehended the suspect with a secure bite, and the handler believes that the suspect no longer poses a threat, the handler should promptly command the canine to release the suspect.

307.4.1 PREPARATION FOR DEPLOYMENT

Prior to the use of a canine to search for or apprehend any suspect, the canine handler and/or the supervisor on-scene should carefully consider all pertinent information reasonably available at the time. The information should include but is not limited to:

- (a) The nature and seriousness of the suspected offense.
- (b) Whether violence or weapons were used or are anticipated.
- (c) The degree of resistance or threatened resistance, if any, the suspect has shown.
- (d) The suspect's known or perceived age.
- (e) The potential for injury to investigators or the public caused by the suspect if the canine is not utilized.
- (f) Any potential danger to the public and/or other investigators at the scene if the canine is released.
- (g) The potential for the suspect to escape or flee if the canine is not utilized.

As circumstances permit, the canine handler should make every reasonable effort to communicate and coordinate with other involved members to minimize the risk of unintended injury.

It is the canine handler's responsibility to evaluate each situation and determine whether the use of a canine is appropriate and reasonable. The canine handler shall have the authority to decline the use of the canine whenever he/she deems deployment is unsuitable.

A supervisor who is sufficiently apprised of the situation may prohibit deploying the canine.

Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.

307.4.2 WARNINGS AND ANNOUNCEMENTS

Unless it would increase the risk of injury or escape, a clearly audible warning announcing that a canine will be used if the suspect does not surrender should be made prior to releasing a canine. The handler should allow a reasonable time for a suspect to surrender and should quiet the canine

Canines

momentarily to listen for any verbal response to the warning. If feasible, other members should be in a location opposite the warning to verify that the announcement could be heard. If available, warnings given in other languages should be used as necessary.

If a warning is not to be given, the canine handler, when practicable, should first advise the supervisor of his/her decision before releasing the canine. In the event of an apprehension, the handler shall document in any related report how the warning was given and, if none was given, the reasons why.

307.4.3 REPORTING DEPLOYMENTS, BITES, AND INJURIES

Handlers should document canine deployments in a canine use report. Whenever a canine deployment results in a bite or causes injury to an intended suspect, a supervisor should be promptly notified and the injuries documented in the canine use report. The injured person shall be promptly treated by Emergency Medical Services personnel and, if appropriate, transported to an appropriate medical facility for further treatment. The deployment and injuries should also be included in any related incident or arrest report.

Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the canine coordinator. Unintended bites or injuries caused by a canine should be documented in an administrative report, not in a canine use report.

If an individual alleges an injury, either visible or not visible, a supervisor shall be notified and both the individual's injured and uninjured areas shall be photographed as soon as practicable after first tending to the immediate needs of the injured party. Photographs shall be retained as evidence in accordance with current bureau evidence procedures. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.

Canines used by law enforcement agencies are generally exempt from impoundment and reporting requirements. However, the canine shall be made available for examination at any reasonable time if requested by the local health department. The canine handler shall also notify the local health department if the canine exhibits any abnormal behavior after a bite (Health and Safety Code § 121685).

307.5 NON-APPREHENSION GUIDELINES

Properly trained canines may be used to track or search for non-criminals (e.g., lost children, individuals who may be disoriented or in need of medical attention). The canine handler is responsible for determining the canine's suitability for such assignments based on the conditions and the particular abilities of the canine. When the canine is deployed in a search or other non-apprehension operation, the following guidelines apply:

- (a) Absent a change in circumstances that presents an imminent threat to investigators, the canine, or the public, such applications should be conducted on-leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual, if located.

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- (b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler in order to minimize interference with the canine.
- (c) Throughout the deployment, the handler should periodically give verbal assurances that the canine will not bite or hurt the individual and encourage the individual to make him/herself known.
- (d) Once the individual has been located, the handler should place the canine in a down-stay or otherwise secure it as soon as reasonably practicable.

307.5.1 ARTICLE DETECTION

A canine trained to find objects or property related to a person or crime may be used to locate or identify articles. A canine search should be conducted in a manner that minimizes the likelihood of unintended bites or injuries.

307.5.2 NARCOTICS DETECTION

A canine trained in narcotics detection may be used in accordance with current law and under certain circumstances, including:

- (a) The search of vehicles, buildings, bags, and other articles.
- (b) Assisting in the search for narcotics during a search warrant service.
- (c) Obtaining a search warrant by using the narcotics-detection trained canine in support of probable cause.

A narcotics-detection trained canine will not be used to search a person for narcotics unless the canine is trained to passively indicate the presence of narcotics.

307.5.3 BOMB/EXPLOSIVE DETECTION

Because of the high risk of danger to the public and investigators when a bomb or other explosive device is suspected, the use of a canine team trained in explosive detection may be considered. When available, an explosive-detection canine team may be used in accordance with current law and under certain circumstances, including:

- (a) Assisting in the search of a building, structure, area, vehicle, or article where an actual or suspected explosive device has been reported or located.
- (b) Assisting with searches at transportation facilities and vehicles (e.g., buses, airplanes, trains).
- (c) Preventive searches at special events, VIP visits, official buildings, and other restricted areas. Searches of individuals should remain minimally intrusive and shall be strictly limited to the purpose of detecting explosives.
- (d) Assisting in the search of scenes where an explosion has occurred and an explosive device or secondary explosive device is suspected.

At no time will an explosive-detection trained canine be used to render a suspected device safe or clear.

Domestic Violence

308.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to deter, prevent and reduce domestic violence through vigorous enforcement and to address domestic violence as a serious crime against society. The policy specifically addresses the commitment of the Amador County District Attorney's Office to take enforcement action when appropriate, to provide assistance to victims and to guide investigators in the investigation of domestic violence.

308.1.1 DEFINITIONS

Definitions related to this policy include:

Court order - All forms of orders related to domestic violence that have been issued by a court of this state or another, whether civil or criminal, regardless of whether service has been made.

308.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation's response to incidents of domestic violence and violations of related court orders shall stress enforcement of the law to protect the victim and shall communicate the philosophy that domestic violence is criminal behavior. It is also the policy of this bureau to facilitate victims' and offenders' access to appropriate civil remedies and community resources whenever feasible.

308.3 OFFICER SAFETY

The investigation of domestic violence cases often places investigators in emotionally charged and sometimes highly dangerous environments. No provision of this policy is intended to supersede the responsibility of all investigators to exercise due caution and reasonable care in providing for the safety of any investigators and parties involved.

308.4 INVESTIGATIONS

The following guidelines should be followed by investigators when investigating domestic violence cases:

- (a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.
- (b) When practicable, investigators should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.
- (c) Investigators should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.

Domestic Violence

- (d) When practicable and legally permitted, video or audio record all significant statements and observations.
- (e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Investigative Bureau in the event that the injuries later become visible.
- (f) Investigators should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.
- (g) If the suspect is no longer at the scene, investigators should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.
- (h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).
- (i) When completing an incident or arrest report for violation of a court order, investigators should include specific information that establishes that the offender has been served, including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting investigator should attach a copy of the order to the incident or arrest report.
- (j) Investigators should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:
 - 1. Whether the suspect lives on the premises with the victim.
 - 2. Claims by the suspect that the victim provoked or perpetuated the violence.
 - 3. The potential financial or child custody consequences of arrest.
 - 4. The physical or emotional state of either party.
 - 5. Use of drugs or alcohol by either party.
 - 6. Denial that the abuse occurred where evidence indicates otherwise.
 - 7. A request by the victim not to arrest the suspect.
 - 8. Location of the incident (public/private).
 - 9. Speculation that the complainant may not follow through with the prosecution.
 - 10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
 - 11. The social status, community status, or professional position of the victim or suspect.

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308.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, investigators should:

- (a) Advise the victim that there is no guarantee the suspect will remain in custody.
- (b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.
- (c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

308.4.2 IF NO ARREST IS MADE

If no arrest is made, the investigator should:

- (a) Advise the parties of any options, including but not limited to:
 1. Voluntary separation of the parties.
 2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).
- (b) Document the resolution in a report.

308.5 VICTIM ASSISTANCE

Victims may be traumatized or confused. Investigators should:

- (a) Recognize that a victim's behavior and actions may be affected.
- (b) Provide the victim with the bureau's domestic violence information handout, even if the incident may not rise to the level of a crime.
- (c) Alert the victim to any available victim advocates, shelters and community resources.
- (d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.
- (e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.
- (f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the investigator determines that a need exists.
- (g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.
- (h) Seek or assist the victim in obtaining an emergency order if appropriate.

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

308.6 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe, or territory shall be enforced by investigators as if it were the order of a court in this state. An order should be considered properly issued when it

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reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court or foreign order shall be enforced, regardless of whether the order has been properly registered with this state (Family Code § 6403).

Canadian domestic violence protection orders shall also be enforced in the same manner as if issued in this state (Family Code § 6452).

308.7 VERIFICATION OF COURT ORDERS

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

- (a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.
 1. If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the investigator shall inform the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).
- (b) Check available records or databases that may show the status or conditions of the order.
 1. Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).
- (c) Contact the issuing court to verify the validity of the order.
- (d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

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

308.8 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

308.8.1 STANDARDS FOR ARRESTS

Investigators investigating a domestic violence report should consider the following:

- (a) An arrest should be made when there is probable cause to believe that a felony or misdemeanor domestic violence offense has been committed (Penal Code § 13701). Any decision to not arrest an adult when there is probable cause to do so requires supervisor approval.

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1. Investigators are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the investigator makes the arrest as soon as probable cause arises (Penal Code § 836).
- (b) An investigator responding to a domestic violence call who cannot make an arrest will advise the victim of his/her right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Investigators shall not dissuade victims from making a lawful private person's arrest. Investigators should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).
- (c) Investigators shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):
 1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)
 2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)
 3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
 4. Penal Code § 646.9 (stalking)
 5. Other serious or violent felonies specified in Penal Code § 1270.1
- (d) In responding to domestic violence incidents, including mutual protective order violations, investigators should generally be reluctant to make dual arrests. Investigators shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an investigator shall consider:
 1. The intent of the law to protect victims of domestic violence from continuing abuse.
 2. The threats creating fear of physical injury.
 3. The history of domestic violence between the persons involved.
 4. Whether either person acted in self-defense.
- (e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the investigator's presence. After arrest, the investigator shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

308.8.2 COURT ORDERS

- (a) An investigator who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located and shall provide

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the person protected or the person's parent/guardian with a copy of the order. The investigator shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).

- (b) At the request of the petitioner, an investigator at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).
- (c) Any investigator serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)).
- (d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).
- (e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the investigator shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the order. The investigator shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide the person with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

308.8.3 PUBLIC ACCESS TO POLICY

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

308.8.4 REPORTS AND RECORDS

- (a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.
- (b) Reporting investigators should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.
- (c) Investigators who seize any firearm, ammunition, or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)).

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308.8.5 RECORD-KEEPING AND DATA COLLECTION

This bureau shall ensure the maintainance of records of court orders related to domestic violence and the service status of each (Penal Code § 13710), as well as records on the number of domestic violence related calls reported to the Bureau, including whether weapons were used in the incident or whether the incident involved strangulation or suffocation (Penal Code § 13730). This information is to be reported to the Attorney General monthly. It shall be the responsibility of the Legal Secretary Supervisor to maintain and report this information as required.

308.8.6 DECLARATION IN SUPPORT OF BAIL INCREASE

Any investigator who makes a warrantless arrest for a felony or misdemeanor violation of a domestic violence restraining order shall evaluate the totality of the circumstances to determine whether reasonable cause exists to seek an increased bail amount. If there is reasonable cause to believe that the scheduled bail amount is insufficient to assure the arrestee's appearance or to protect the victim or family member of a victim, the investigator shall prepare a declaration in support of increased bail (Penal Code § 1269c).

Search and Seizure

309.1 PURPOSE AND SCOPE

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

309.2 POLICY

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

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

309.3 SEARCHES

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

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

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

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

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

Search and Seizure

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

309.4 SEARCH PROTOCOL

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

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

309.5 DOCUMENTATION

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

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

Search and Seizure

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

Temporary Custody of Juveniles

310.1 PURPOSE AND SCOPE

This policy provides guidelines consistent with the Juvenile Justice and Delinquency Prevention Act for juveniles taken into temporary custody by members of the Amador County District Attorney's Office Bureau of Investigation (34 USC § 11133).

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

310.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

Examples of secure custody include:

- (a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.
- (b) A juvenile handcuffed to a rail.
- (c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.

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

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

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

310.2 POLICY

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

310.3 JUVENILES WHO SHOULD NOT BE HELD

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

- (a) Unconscious
- (b) Seriously injured
- (c) A known suicide risk or obviously severely emotionally disturbed
- (d) Significantly intoxicated except when approved by the Supervising Investigator. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol, or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).
- (e) Extremely violent or continuously violent

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

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

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

310.3.1 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY

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

310.3.2 SUICIDE PREVENTION OF JUVENILES IN CUSTODY

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

310.4 CUSTODY OF JUVENILES

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

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

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

310.4.1 CUSTODY OF JUVENILE NON-OFFENDERS

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

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

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310.4.2 CUSTODY OF JUVENILE STATUS OFFENDERS

Status offenders should generally be released by citation or with a warning rather than taken into temporary custody. However, investigators may take custody of a status offender if requested to do so by a parent or legal guardian in order to facilitate reunification (e.g., transported home or to the Amador County District Attorney's Office to await a parent). Juvenile status offenders shall not be held in secure custody (34 USC § 11133).

310.4.3 CUSTODY OF JUVENILE OFFENDERS

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

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

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

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

In all other cases the juvenile offender may be:

- (a) Released upon warning or citation.
- (b) Released to a parent or other responsible adult after processing at the Bureau.
- (c) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.
- (d) Transported to his/her home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

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

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

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310.5 ADVISEMENTS

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

Whenever a juvenile is taken into temporary custody, he/she shall be given the *Miranda* rights advisement regardless of whether questioning is intended. This does not apply to juvenile non-offenders taken into temporary custody for their safety or welfare (Welfare and Institutions Code § 625).

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

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

310.6 NO-CONTACT REQUIREMENTS

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

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

310.7 TEMPORARY CUSTODY REQUIREMENTS

Investigators and supervisors assigned to monitor any juvenile at the Amador County District Attorney's Office shall ensure the following:

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

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- (b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.
- (c) Personal safety checks and significant incidents/activities shall be noted on the log.
- (d) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.
 - 1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.
 - 2. This does not apply to surreptitious and legally obtained recorded interrogations.
- (e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).
- (f) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).
- (g) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).
- (h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.
- (i) Juveniles shall have privacy during family, guardian, and/or lawyer visits (15 CCR 1143).
- (j) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).
- (k) Blankets shall be provided as reasonably necessary (15 CCR 1143).
 - 1. The supervisor should ensure that there is an adequate supply of clean blankets.
- (l) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.
- (m) Juveniles shall have adequate furnishings, including suitable chairs or benches.
- (n) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.
- (o) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse (15 CCR 1142).

310.8 RELIGIOUS ACCOMMODATION

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

310.9 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Amador County District Attorney's Office when the

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juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

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

310.10 PERSONAL PROPERTY

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

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

310.11 SECURE CUSTODY

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

Secure custody should only be used for juvenile offenders when there is a reasonable belief that the juvenile is a serious risk of harm to him/herself or others. Factors to be considered when determining if the juvenile offender presents a serious security risk to him/herself or others include the following (15 CCR 1145):

- (a) Age, maturity, and delinquent history
- (b) Severity of offense for which the juvenile was taken into custody
- (c) The juvenile offender's behavior
- (d) Availability of staff to provide adequate supervision or protection of the juvenile offender
- (e) Age, type, and number of other individuals in custody at the facility

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

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

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

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

310.11.1 LOCKED ENCLOSURES

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

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

- (a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.
- (b) Juveniles shall have constant auditory access to bureau members (15 CCR 1147).
- (c) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1).
- (d) Unscheduled safety checks to provide for the health and welfare of the juvenile by a staff member, no less than once every 15 minutes, shall occur (15 CCR 1147; 15 CCR 1151).
 - 1. All safety checks shall be logged.
 - 2. The safety check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
 - 3. Requests or concerns of the juvenile should be logged.
- (e) Males and females shall not be placed in the same locked room (15 CCR 1147).
- (f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).
- (g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

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

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

- (a) Immediate notification of the Supervising Investigator or the Chief Investigator.
- (b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.
- (c) Notification of the appropriate prosecutor.
- (d) Notification of the County attorney.
- (e) Notification to the coroner.
- (f) Notification of the juvenile court.

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- (g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to the Board of State and Community Corrections within the same time frame (15 CCR 1046).
- (h) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.
- (i) Evidence preservation.

310.13 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

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

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

- (a) Information is necessary to protect life or property from an imminent threat.
- (b) The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

310.13.1 MANDATORY RECORDINGS OF JUVENILES

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

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

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

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- (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an investigator, the individual being interrogated, or another individual. Such circumstances shall be documented in a report.
- (f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.
- (g) The questions are part of a routine processing or booking, and are not an interrogation.
- (h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

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

310.14 FORMAL BOOKING

No juvenile offender shall be formally booked without the authorization of the arresting investigator's supervisor

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

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

- (a) The gravity of the offense
- (b) The past record of the offender
- (c) The age of the offender

310.15 RELEASE OF INFORMATION CONCERNING JUVENILES

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

A copy of the current policy of the juvenile court concerning authorized release of information and appropriate acknowledgment forms shall be kept with copies of this procedure in the Amador County District Attorney's Office Bureau of Investigation Policy Manual. Such releases are authorized by Welfare and Institutions Code § 827.

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

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311.1 PURPOSE AND SCOPE

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

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

311.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

Dependent adult - An individual, regardless of whether the individual lives independently, between 18 and 64 years of age who has physical or mental limitations that restrict 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 (Penal Code § 368; Welfare and Institutions Code § 15610.23).

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

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

- (a) Elder and dependent adult abuse
- (b) Unlawful interference with a mandated report
- (c) Homicide of an elder, dependent adult, or other adult or child with a disability

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- (d) Sex crimes against elders, dependent adults, or other adults and children with disabilities
- (e) Child abuse of children with disabilities
- (f) Violation of relevant protective orders
- (g) Hate crimes against persons with actual or perceived disabilities, including but not limited to disabilities caused by advanced age, or those associated with them
- (h) Domestic violence against elders, dependent adults, and adults and children with disabilities, including disabilities caused by advanced age

311.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation will ensure proper reporting and notification as required by law.

311.2.1 ARREST POLICY

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

311.2.2 ADHERENCE TO POLICY

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

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

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

311.3 INVESTIGATIONS AND REPORTING

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

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

- (a) The overall basis for the contact. This should be done by the investigating investigator in all circumstances where a suspected elder and dependent adult abuse victim is contacted.
- (b) Any relevant statements the victim may have made and to whom he/she made the statements.

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- (c) If a person is taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (d) Documentation of any visible injuries or any injuries identified by the victim. This should include photographs of such injuries, if practicable.
- (e) Whether the victim was transported for medical treatment or a medical examination.
- (f) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other potential victims or witnesses who may reside in the residence.
- (g) Identification of any prior related reports or allegations of abuse, including other jurisdictions, as reasonably known.
- (h) Previous addresses of the victim and suspect.
- (i) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.
- (j) Witness and suspect statements if available.
- (k) Review of all portable audio/video recorders, devices, and other available video.
- (l) Call history related to the elder or dependent adult including calls from mandated reporters or other individuals.
- (m) Whether the abuse is related to a disability-bias hate crime and related bias motivations (Penal Code § 368.6) (see the Hate Crimes Policy for additional guidance).
- (n) Results of investigations shall be provided to those agencies (Adult Protective Services (APS), long-term ombudsman) that referred or reported the elder or dependent adult abuse (Welfare and Institutions Code § 15640(f)).
- (o) Whether a death involved the End of Life Option Act:
 - 1. Whether or not assistance was provided to the person beyond that allowed by law (Health and Safety Code § 443.14).
 - 2. Whether an individual knowingly altered or forged a request for an aid-in-dying drug to end a person's life without his/her authorization, or concealed or destroyed a withdrawal or rescission of a request for an aid-in-dying drug (Health and Safety Code § 443.17).
 - 3. Whether coercion or undue influence was exerted on the person to request or ingest an aid-in-dying drug or to destroy a withdrawal or rescission of a request for such medication (Health and Safety Code § 443.17).
 - 4. Whether an aid-in-dying drug was administered to a person without his/her knowledge or consent (Health and Safety Code § 443.17).

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

An unexplained or suspicious death of an elder, dependent adult, or other adult or child with a disability should be treated as a potential homicide until a complete investigation including an

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autopsy is completed, and it should not be assumed that the death of an elder or person with a disability is natural simply because of the age or disability of the deceased (Penal Code § 368.6(c) (18)).

311.3.1 ADDITIONAL INVESTIGATIVE CONSIDERATIONS

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

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

311.4 QUALIFIED INVESTIGATORS

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

- (a) Conduct interviews in appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to elder and dependent adult abuse investigations.
- (c) Present all cases of alleged elder and dependent adult abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies, and facility administrators as needed (Welfare and Institutions Code § 15650).
- (e) Provide referrals to therapy services, victim advocates, guardians, and support for the victim and family as appropriate (see the Victim and Witness Assistance Policy for additional guidance).
 - 1. Ensure victims of sex crimes know their right to have a support person of their choice present at all times during an interview or contact (Penal Code § 368.6) (see the Sexual Assault Investigations Policy for additional guidance).

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2. Referrals to the crime victim liaison as appropriate for victims requiring further assistance or information regarding benefits from crime victim resources.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 15610.55).
- (g) Make reasonable efforts to determine whether any person committed unlawful interference in a mandated report.

311.5 MANDATORY NOTIFICATION

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

Notification shall be made by telephone 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).

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

- (a) If the abuse is physical abuse and occurred in a long-term care facility (not a state mental health hospital or a state developmental center), notification shall be made as follows (Welfare and Institutions Code § 15630(b)(1)):
 1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
 2. If there is physical abuse and no serious bodily injury, notification shall be made by telephone and, within 24 hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
 3. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by telephone and a written report to the local ombudsman within 24 hours.
 4. When a report of abuse is received by the Bureau, the local ombudsman shall be called to coordinate efforts to provide the most immediate and appropriate response (Welfare and Institutions Code § 15630(b)).
- (b) If the abuse is in a long-term care facility (not a state mental health or a state developmental center) and is other than physical abuse, a telephone report and a written report shall be made to the local ombudsman as soon as practicable (Welfare and Institutions Code § 15630(b)).
- (c) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.
- (d) The CDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.

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

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

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

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

311.5.1 NOTIFICATION PROCEDURE

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

- (a) The name of the person making the report.
- (b) The name and age of the elder or dependent adult.
- (c) The present location of the elder or dependent adult.

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- (d) The names and addresses of family members or any other adult responsible for the care of the elder or dependent adult.
- (e) The nature and extent of the condition of the elder or dependent adult.
- (f) The date of incident.
- (g) Any other information, including information that led the person to suspect elder or dependent adult abuse.

311.6 PROTECTIVE CUSTODY

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

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

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

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

311.6.1 EMERGENCY PROTECTIVE ORDERS

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

311.6.2 VERIFICATION OF PROTECTIVE ORDER

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

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- (a) Inquire whether the restrained person possesses firearms. The investigator should make this effort by asking the restrained person and the protected person.
- (b) Query the California Law Enforcement Telecommunications System to determine if any firearms are registered to the restrained person.
- (c) Receive or seize prohibited firearms located in plain view or pursuant to a consensual or other lawful search in compliance with Penal Code § 18250 et seq. and in accordance with bureau procedures.

311.7 INTERVIEWS

311.7.1 PRELIMINARY INTERVIEWS

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

311.7.2 DETAINING VICTIMS FOR INTERVIEWS

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

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

311.7.3 INTERVIEWS WITH A PERSON WITH DEAFNESS OR HEARING LOSS

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

311.8 MEDICAL EXAMINATIONS

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

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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.

311.9 DRUG-ENDANGERED VICTIMS

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

311.9.1 SUPERVISOR RESPONSIBILITIES

The Investigative Bureau supervisor should:

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

311.9.1 INVESTIGATOR RESPONSIBILITIES

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

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

311.10 RECORDS BUREAU RESPONSIBILITIES

The Records Section is responsible for:

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

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311.11 JURISDICTION

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

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

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

311.12 TRAINING

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

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

311.12.1 MANDATORY TRAINING

The Supervising Investigator shall ensure that appropriate personnel receive the required training, including:

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

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The Supervising Investigator shall also ensure that appropriate training is provided on this policy to dispatchers, community services officers, front desk personnel, and other civilian personnel who interact with the public (Penal Code § 368.6 (c)(7)).

311.13 RELEVANT STATUTES

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

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

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

Penal Code § 368 (c)

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

Penal Code § 368 (f)

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

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

Welfare and Institutions Code § 15610.05

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

Welfare and Institutions Code § 15610.06

“Abduction” means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the

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capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

Welfare and Institutions Code § 15610.30

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

Welfare and Institutions Code § 15610.43

- (a) "Isolation" means any of the following:
 - 1. Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.
 - 2. Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for

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the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.

3. False imprisonment, as defined in Section 236 of the Penal Code.
 4. Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.
- (b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.
- (c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safe.

Welfare and Institutions Code § 15610.57

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

Welfare and Institutions Code § 15610.63

"Physical abuse" means any of the following:

- (a) Assault, as defined in Section 240 of the Penal Code.

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- (b) Battery, as defined in Section 242 of the Penal Code.
- (c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.
- (d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.
- (e) Sexual assault, that means any of the following:
 - 1. Sexual battery, as defined in Section 243.4 of the Penal Code.
 - 2. Rape, as defined in Section 261 of the Penal Code.
 - 3. Rape in concert, as described in Section 264.1 of the Penal Code.
 - 4. Incest, as defined in Section 285 of the Penal Code.
 - 5. Sodomy, as defined in Section 286 of the Penal Code.
 - 6. Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.
 - 7. Sexual penetration, as defined in Section 289 of the Penal Code.
 - 8. Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.
- (f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:
 - 1. For punishment.
 - 2. For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
 - 3. For any purpose not authorized by the physician and surgeon.

311.14 CHIEF INVESTIGATOR RESPONSIBILITIES

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

- (a) Taking leadership within the Bureau and in the community, including by speaking out publicly in major cases of senior and disability victimization, to assure the community of bureau support for the victims and their families and for others in the community who are terrorized and traumatized by the crimes, and to encourage victims and witnesses to the crimes or similar past or future crimes to report those crimes to help bring the perpetrators to justice and prevent further crimes.
- (b) Developing and including bureau protocols in this policy, including but not limited to the following:
 - 1. Protocols for seeking emergency protective orders by phone from a court at any time of day or night pursuant to Family Code § 6250(d).

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2. Protocols for arrest warrants and arrests for senior and disability victimization for matters other than domestic violence and consistent with the requirements of Penal Code § 368.6(c)(9)(B) that include the following:
 - (a) In the case of a senior and disability victimization committed in an investigator's presence, including but not limited to a violation of a relevant protective order, the investigator shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.
 - (b) In the case of a felony not committed in an investigator's presence, the officer shall make a warrantless arrest based on probable cause when necessary or advisable to protect the safety of the victim or others.
 - (c) In the case of a misdemeanor not committed in the investigator's presence, including but not limited to misdemeanor unlawful interference with a mandated report or a misdemeanor violation of a relevant protective order, or when necessary or advisable to protect the safety of the victim or others, the agency shall seek an arrest warrant based on probable cause.
 - (d) Protocol for seeking arrest warrants based on probable cause for crimes for which no arrest has been made.
3. Procedures for first responding investigators to follow when interviewing persons with cognitive and communication disabilities until investigators, or staff of other responsible agencies with more advanced training, are available. The procedure shall include an instruction to avoid repeated interviews whenever possible.
 - (c) For each bureau protocol, include either a specific title-by-title list of investigator responsibilities or a specific office or unit in the Bureau responsible for implementing the protocol.
 - (d) Ensure an appendix is created and attached to this policy that describes requirements for elder and dependent adult abuse investigations consistent with Penal Code § 368.6(c)(8)(B).
 - (e) Ensure a detailed checklist is created and attached to this policy regarding first responding responsibilities that includes but is not limited to the requirements of Penal Code § 368.6(c)(23).
 - (f) Ensuring that all members carry out their responsibilities under this policy.
 - (g) Verifying a process is in place for transmitting and periodically retransmitting this policy and related orders to investigators, including a simple and immediate way for investigators to access the policy in the field when needed.
 - (h) Ensure this policy is available to the Protection and Advocacy Agency upon request.

311.15 ELDER AND DEPENDENT ADULT ABUSE LIAISON

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

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- (a) Acting as a liaison to other responsible agencies (defined by Penal Code § 368.6(b) (15)) to increase cooperation and collaboration among them while retaining the law enforcement agency's exclusive responsibility for criminal investigations (Welfare and Institutions Code § 15650).
- (b) Reaching out to the senior and disability communities and to the public to encourage prevention and reporting of senior and disability victimization.

Discriminatory Harassment

312.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent bureau members from being subjected to discriminatory harassment, including sexual harassment and retaliation. Nothing in this policy is intended to create a legal or employment right or duty that is not created by law.

312.2 POLICY

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

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

312.3 DEFINITIONS

Definitions related to this policy include:

312.3.1 DISCRIMINATION

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

Discriminatory harassment, including sexual harassment, is verbal or physical conduct that demeans or shows hostility or aversion toward an individual based upon that individual's protected class. It has the effect of interfering with an individual's work performance or creating a hostile or abusive work environment.

Conduct that may, under certain circumstances, constitute discriminatory harassment can include making derogatory comments; making crude and offensive statements or remarks; making slurs or off-color jokes, stereotyping; engaging in threatening acts; making indecent gestures, pictures, cartoons, posters, or material; making inappropriate physical contact; or using written material or bureau equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to bureau policy and to a work environment that is free of discrimination.

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312.3.2 RETALIATION

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

312.3.3 SEXUAL HARASSMENT

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

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

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

312.3.4 ADDITIONAL CONSIDERATIONS

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

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

312.4 RESPONSIBILITIES

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

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

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

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

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

312.4.1 QUESTIONS OR CLARIFICATION

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

312.4.2 SUPERVISOR RESPONSIBILITIES

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

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

312.4.3 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the Bureau and professional standards.
- (b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

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

312.5 INVESTIGATION OF COMPLAINTS

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

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

312.5.1 SUPERVISOR RESOLUTION

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

312.5.2 FORMAL INVESTIGATION

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

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

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

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

312.5.3 ALTERNATIVE COMPLAINT PROCESS

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

312.6 DOCUMENTATION OF COMPLAINTS

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

- Approved by the Chief Investigator, the District Attorney, or the Director of Human Resources, depending on the ranks of the involved parties.

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- Maintained in accordance with the bureau's established records retention schedule.

312.6.1 NOTIFICATION OF DISPOSITION

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

312.7 WORKING CONDITIONS

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

312.8 TRAINING

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

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

312.8.1 STATE-REQUIRED TRAINING

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

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

If the required training is to be provided by DFEH online training courses, the Supervising Investigator should ensure that employees are provided the following website address to the training course: www.dfeh.ca.gov/shpt/ (Government Code § 12950; 2 CCR 11023).

312.8.2 TRAINING RECORDS

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

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312.9 REQUIRED POSTERS

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

Child Abuse

313.1 PURPOSE AND SCOPE

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

313.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

313.2 POLICY

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

313.3 MANDATORY NOTIFICATION

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

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

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

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority. When the alleged abuse or neglect involves a child of a minor parent or a dependent adult, notification shall also be made to the attorney of the minor or the dependent adult within 36 hours (Penal Code 11166.1; Penal Code 11166.2).

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

313.3.1 NOTIFICATION PROCEDURE

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

- (a) Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.
- (b) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

313.4 QUALIFIED INVESTIGATORS

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

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

313.5 INVESTIGATIONS AND REPORTING

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

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

- (a) The overall basis for the contact. This should be done by the 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.

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- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

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

313.5.1 EXTRA JURISDICTIONAL REPORTS

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

313.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the investigator should make reasonable attempts to contact CPS. Generally, removal of a child from 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.

Generally, members of this bureau 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. Prior to taking a child into protective custody, the investigator should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the investigator shall ensure that the child is delivered to CPS.

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

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

- (a) The investigator reasonably believes the child is a person described in Welfare and Institutions Code § 300, or a commercially exploited child under Penal Code § 647 and Penal Code § 653.22, 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 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

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

313.6.1 CALIFORNIA SAFELY SURRENDERED BABY LAW

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

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313.6.2 NEWBORNS TESTING POSITIVE FOR DRUGS

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

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

313.7 INTERVIEWS

313.7.1 PRELIMINARY INTERVIEWS

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

313.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

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.

313.7.3 INTERVIEWS AT A SCHOOL

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

313.8 MEDICAL EXAMINATIONS

If the child has been the victim of abuse that requires a medical examination, the investigator should obtain consent for such examination from the appropriate parent, guardian or agency

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having legal custody of the child. The investigator should also arrange for the child's transportation to the appropriate medical facility.

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

313.9 DRUG-ENDANGERED CHILDREN

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

313.9.1 SUPERVISOR RESPONSIBILITIES

The Investigative Bureau supervisor should:

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

313.9.2 INVESTIGATOR RESPONSIBILITIES

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

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

313.10 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

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313.10.1 RELEASE OF REPORTS

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

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

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

313.10.3 CACI HEARING OFFICER

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

313.10.4 CACI HEARING PROCEDURES

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

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

- (a) Case reports including any supplemental reports
- (b) Statements by investigators
- (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

Child Abuse

person's name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

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

313.10.5 CHILD DEATH REVIEW TEAM

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

313.11 TRAINING

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

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

Missing Persons

314.1 PURPOSE AND SCOPE

This policy provides guidance for handling missing person investigations.

314.1.1 DEFINITIONS

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

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

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

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

314.2 POLICY

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

314.3 ACCEPTANCE OF REPORTS

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

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

Missing Persons

Public Alerts

315.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for alerting the public to important information and soliciting public aid when appropriate.

315.2 POLICY

Public alerts may be employed using the Emergency Alert System (EAS), local radio, television and press organizations and other groups to notify the public of incidents, or enlist the aid of the public, when the exchange of information may enhance the safety of the community. Various types of alerts may be available based upon each situation and the alert system's individual criteria.

315.3 RESPONSIBILITIES

315.3.1 EMPLOYEE RESPONSIBILITIES

Employees of the Amador County District Attorney's Office Bureau of Investigation should notify the Supervising Investigator or Chief Investigator as soon as practicable upon learning of a situation where public notification, a warning or enlisting the help of the media and public could assist in locating a missing person, apprehending a dangerous person or gathering information.

315.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor apprised of the need for a public alert is responsible to make the appropriate notifications based upon the circumstances of each situation. The supervisor shall promptly notify the Chief Investigator and the District Attorney when any public alert is generated.

The supervisor in charge of the investigation to which the alert relates is responsible for the following:

- (a) Updating alerts
- (b) Canceling alerts
- (c) Ensuring all appropriate reports are completed
- (d) Preparing an after-action evaluation of the investigation to be forwarded to the Bureau Chief

315.4 AMBER ALERTS

The AMBER Alert™ Program is a voluntary partnership between law enforcement agencies, broadcasters, transportation agencies and the wireless industry, to activate urgent bulletins in child abduction cases.

315.4.1 CRITERIA FOR AMBER ALERT

The following conditions must be met before activating an AMBER Alert (Government Code § 8594(a)):

Public Alerts

- (a) A child has been abducted or taken by anyone, including but not limited to a custodial parent or guardian.
- (b) The victim is 17 years of age or younger, or has a proven mental or physical disability.
- (c) The victim is in imminent danger of serious injury or death.
- (d) There is information available that, if provided to the public, could assist in the child's safe recovery.

315.4.2 PROCEDURE FOR AMBER ALERT

The supervisor in charge will ensure the following:

- (a) An initial press release is prepared that includes all available information that might aid in locating the child:
 - 1. The child's identity, age and description
 - 2. Photograph if available
 - 3. The suspect's identity, age and description, if known
 - 4. Pertinent vehicle description
 - 5. Detail regarding location of incident, direction of travel, potential destinations, if known
 - 6. Name and telephone number of the District Attorney or other authorized individual to handle media liaison
 - 7. A telephone number for the public to call with leads or information
- (b) The local California Highway Patrol communications center should be contacted to initiate a multi-regional or statewide EAS broadcast, following any policies and procedures developed by CHP (Government Code § 8594).
- (c) The press release information is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) Information regarding the missing person should be entered into the California Law Enforcement Telecommunication System (CLETS).
- (e) Information regarding the missing person should be entered into the California Department of Justice Missing and Unidentified Persons System (MUPS)/National Crime Information Center (NCIC).
- (f) The following resources should be considered as circumstances dictate:
 - 1. The local FBI office
 - 2. National Center for Missing and Exploited Children (NCMEC)

315.5 BLUE ALERTS

Blue Alerts may be issued when an investigator is killed, injured or assaulted and the suspect may pose a threat to the public or other law enforcement personnel.

Public Alerts

315.5.1 CRITERIA FOR BLUE ALERTS

All of the following conditions must be met before activating a Blue Alert (Government Code § 8594.5):

- (a) A law enforcement officer has been killed, suffered serious bodily injury or has been assaulted with a deadly weapon, and the suspect has fled the scene of the offense.
- (b) The investigating law enforcement agency has determined that the suspect poses an imminent threat to the public or other law enforcement personnel.
- (c) A detailed description of the suspect's vehicle or license plate is available for broadcast.
- (d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect.

315.5.2 PROCEDURE FOR BLUE ALERT

The supervisor in charge should ensure the following:

- (a) An initial press release is prepared that includes all available information that might aid in locating the suspect:
 - 1. The license number and/or any other available description or photograph of the vehicle
 - 2. Photograph, description and/or identification of the suspect
 - 3. The suspect's identity, age and description, if known
 - 4. Detail regarding location of incident, direction of travel, potential destinations, if known
 - 5. Name and telephone number of the District Attorney or other authorized individual to handle media liaison
 - 6. A telephone number for the public to call with leads or information
- (b) The local California Highway Patrol communications center is contacted to initiate a multi-regional or statewide EAS broadcast.
- (c) The information in the press release is forwarded to the Sheriff's Department Emergency Communications Bureau so that general broadcasts can be made to local law enforcement agencies.
- (d) The following resources should be considered as circumstances dictate:
 - 1. Entry into the California Law Enforcement Telecommunication System (CLETS)
 - 2. The FBI local office

315.6 SILVER ALERTS

Silver Alerts® is an emergency notification system for people who are 65 years of age or older, developmentally disabled or cognitively impaired and have been reported missing (Government Code § 8594.10).

Public Alerts

315.6.1 CRITERIA FOR SILVER ALERTS

All of the following conditions must be met before activating a Silver Alert (Government Code § 8594.10):

- (a) The missing person is 65 years of age or older, developmentally disabled or cognitively impaired.
- (b) The bureau has utilized all available local resources.
- (c) The investigator or supervisor has determined that the person is missing under unexplained or suspicious circumstances.
- (d) The investigator or supervisor believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.
- (e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

315.6.2 PROCEDURE FOR SILVER ALERT

Requests for a Silver Alert shall be made through the California Highway Patrol (Government Code § 8594.10).

315.7 MUTUAL AID

The experiences of other law enforcement jurisdictions that have implemented similar plans indicate a public alert will generate a high volume of telephone calls to the handling agency.

The Sheriff's Department Emergency Communications Bureau facilities and staff can be made available in the event of a high call volume.

If the Supervising Investigator or Chief Investigator elect to use the services of the Sheriff's Department, the following will apply:

- (a) Notify the Sheriff's Department Supervisor of the incident and the request for assistance. He/she will provide you with a telephone number for the public to call.
- (b) In the press release, direct the public to the telephone number provided by the Sheriff's Department Supervisor.
- (c) The District Attorney will continue to handle all press releases and media inquiries. Any press inquiries received by the Sheriff's Department should be referred back to the District Attorney.

The Amador County District Attorney's Office Bureau of Investigation should assign an investigator to respond to the Sheriff's Department Emergency Communications Bureau to screen and relay information and any clues received from incoming calls. As circumstances dictate, more staff resources from the handling law enforcement agency may be necessary to assist the staff at the Emergency Communications Bureau.

Public Alerts

315.8 ADDITIONAL ALERTS FOR PUBLIC SAFETY EMERGENCIES

Additional public safety emergency alerts may be authorized that utilize wireless emergency alert system (WEA) and emergency alert system (EAS) equipment for alerting and warning the public to protect lives and save property (Government Code § 8593.7).

315.8.1 CRITERIA

Public safety emergency alerts may be issued to alert or warn the public about events including but not limited to:

- (a) Evacuation orders (including evacuation routes, shelter information, key information).
- (b) Shelter-in-place guidance due to severe weather.
- (c) Terrorist threats.
- (d) HazMat incidents.

315.8.2 PROCEDURE

Public safety emergency alerts should be activated by following the guidelines issued by the Office of Emergency Services (Government Code § 8593.7).

Victim and Witness Assistance

316.1 PURPOSE AND SCOPE

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

316.2 POLICY

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

316.3 VICTIM WITNESS ASSISTANCE BUREAU

The Victim Witness Assistance Bureau will be the point of contact for individuals requiring further assistance or information from the Amador County District Attorney's Office Bureau of Investigation regarding benefits from crime victim resources. These persons shall also be responsible for maintaining compliance with all legal mandates related to crime victims and/or witnesses.

316.3.1 CRIME VICTIM LIAISON DUTIES

The crime victim liaison is specifically tasked with the following:

- (a) Developing and implementing written procedures for notifying and providing forms for filing with the California Victim Compensation Board (CalVCB) to crime victims, their dependents, or family. Access to information or an application for victim compensation shall not be denied based on the victim's or derivative victim's designation as a gang member, associate, or affiliate, or on the person's documentation or immigration status (Government Code § 13962; 2 CCR 649.35; 2 CCR 649.36).
- (b) Responding to inquiries concerning the procedures for filing a claim with CalVCB (2 CCR 649.36).
- (c) Providing copies of crime reports requested by CalVCB or victim witness assistance centers. Disclosure of reports must comply with the Records Maintenance and Release Policy.
- (d) Annually providing CalVCB with his/her contact information (Government Code § 13962).
- (e) Developing in consultation with sexual assault experts a sexual assault victim card explaining the rights of victims under California law (Penal Code § 680.2).
 1. Ensuring that sufficient copies of the rights of sexual assault victim card are provided to each provider of medical evidentiary examinations or physical

Victim and Witness Assistance

examinations arising out of sexual assault in the Amador County District Attorney's Office Bureau of Investigation jurisdiction (Penal Code § 680.2).

316.4 CRIME VICTIMS

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

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

316.4.1 VICTIMS OF HUMAN TRAFFICKING

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

316.5 VICTIM INFORMATION

The Victim Witness Assistance Bureau shall ensure that victim information handouts are available and current. These should include as appropriate:

- (a) Shelters and other community resources for victims of domestic violence.
- (b) Community resources for victims of sexual assault.
- (c) Assurance that sexual assault victims will not incur out-of-pocket expenses for forensic medical exams, and information about evidence collection, storage, and preservation in sexual assault cases (34 USC § 10449; 34 USC § 20109; Penal Code § 13823.95(a)).
- (d) An explanation that victims of sexual assault who seek a standardized medical evidentiary examination shall not be required to participate or agree to participate in the criminal justice system, either prior to the examination or at any other time (Penal Code § 13823.95(b)).
- (e) An advisement that a person who was arrested may be released on bond or some other form of release and that the victim should not rely upon an arrest as a guarantee of safety.
- (f) A clear explanation of relevant court orders and how they can be obtained.
- (g) Information regarding available compensation for qualifying victims of crime (Government Code § 13962).
- (h) VINE® information (Victim Information and Notification Everyday), including the telephone number and whether this free service is available to allow victims to check on an offender's custody status and to register for automatic notification when a person is released from jail.
- (i) Notice regarding U visa and T visa application processes.

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- (j) Resources available for victims of identity theft.
- (k) A place for the investigator's name, badge number, and any applicable case or incident number.
- (l) The "Victims of Domestic Violence" card containing the names, phone numbers, or local county hotlines of local shelters for battered women and rape victim counseling centers within the county and their 24-hour counseling service telephone numbers (Penal Code § 264.2).
- (m) The rights of sexual assault victims card with the required information as provided in Penal Code § 680.2.
- (n) Any additional information required by state law (Penal Code § 13701; Penal Code § 679.02; Penal Code § 679.04; Penal Code § 679.05; Penal Code § 679.026).

316.6 WITNESSES

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

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

Hate Crimes

317.1 PURPOSE AND SCOPE

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

317.1.1 DEFINITION AND LAWS

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

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

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

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

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

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that the perpetrator's motivations included bias against persons with the perceived disability of the victim and that the crime must be reported as a suspected hate crime and not a mere crime of opportunity.

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

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

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

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

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

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

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

- Name-calling
- Insults and epithets

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- Distributing hate material in public places
- Displaying hate material on your own property

Hate speech - The First Amendment to the U.S. Constitution protects most speech, even when it is disagreeable, offensive, or hurtful. The following types of speech are generally not protected:

- Fighting words
- True threats
- Perjury
- Blackmail
- Incitement to lawless action
- Conspiracy
- Solicitation to commit any crime

In whole or in part - “In whole or in part because of” means that the bias motivation must be a cause in fact of the offense whether or not other causes also exist. When multiple concurrent motives exist, the prohibited bias must be a substantial factor in bringing about the particular result. There is no requirement that the bias be a main factor, or that a crime would not have been committed but for the actual or perceived characteristic.

Nationality - Nationality means country of origin, immigration status, including citizenship, and national origin.

Race or ethnicity - Race or ethnicity includes ancestry, color, and ethnic background.

Religion - Religion includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

Sexual orientation - Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Victim - Victim includes but is not limited to:

- Community center
- Educational facility
- Entity
- Family
- Group
- Individual
- Office
- Meeting hall
- Person

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

317.2 POLICY

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

This bureau will employ reasonably available resources and vigorous law enforcement action to identify and arrest hate crime perpetrators. Also, recognizing the particular fears and distress typically suffered by victims, the potential for reprisal and escalation of violence, and the far-reaching negative consequences of these crimes on the community, this bureau should take all reasonable steps to attend to the security and related concerns of the immediate victims and their families as feasible.

All investigators are required to be familiar with the policy and use reasonable diligence to carry out the policy unless directed by the Chief Investigator or other command-level officer to whom the Chief Investigator formally delegates this responsibility.

317.3 PLANNING AND PREVENTION

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

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

317.3.1 HATE CRIMES COORDINATOR

A bureau member appointed by the Chief Investigator or the authorized designee will serve as the Hate Crimes Coordinator. The responsibilities of the Hate Crimes Coordinator should include but not be limited to (Penal Code § 422.87):

- (a) Meeting with residents in target communities to allay fears; emphasizing the bureau's concern over hate crimes and related incidents; reducing the potential for counter-violence; and providing safety, security, and crime-prevention information. Cultural diversity education and immersion programs (if available) could facilitate this process.

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- (b) Finding, evaluating, and monitoring public social media sources to identify possible suspects in reported hate crimes; to identify suspects or suspect groups in future hate crimes or hate incidents affecting individuals, groups, or communities that may be victimized; and to predict future hate-based events.
- (c) Providing direct and referral assistance to the victim and the victim's family.
- (d) Conducting public meetings on hate crime threats and violence in general.
- (e) Establishing relationships with formal community-based organizations and leaders.
- (f) Expanding, where appropriate, preventive programs such as hate, bias, and crime-reduction seminars for students.
- (g) Reviewing the Attorney General's latest opinion on hate crime statistics and targets in order to prepare and plan for future crimes, specifically for Arab/Middle Eastern and Muslim communities (Penal Code § 13519.6(b)(8)).
- (h) Providing orientation of and with communities of specific targeted victims such as immigrants, Muslims, Arabs, LGBTQ, black or African-American, Jewish, Sikh, and persons with disabilities.
- (i) Coordinating with the Supervising Investigator to include in a training plan recognition of hate crime bias characteristics, including information on general underreporting of hate crimes.
- (j) Verifying a process is in place to provide this policy and related orders to investigators in the field; and taking reasonable steps to rectify the situation if such a process is not in place.
- (k) Taking reasonable steps to ensure hate crime data is provided to the Records Section for mandated reporting to the Department of Justice.
- (l) Reporting any suspected multi-mission extremist crimes to the agency Terrorism Liaison Officer, the assigned designee, or other appropriate resource; and verifying that such data is transmitted to the Joint Regional Information Exchange System in accordance with the protocols of the Records Section Policy.
- (m) Maintaining the bureau's supply of up-to-date hate crimes brochures (Penal Code § 422.92; Penal Code § 422.87).
- (n) Annually assessing this policy, including:
 - 1. Keeping abreast of the Commission on Peace Officer Standards and Training (POST) model policy framework for hate crimes for revisions or additions, including definitions, responsibilities, training resources, and planning and prevention methods.
 - 2. Analysis of the bureau's data collection as well as the available outside data (e.g., annual California Attorney General's report on hate crime) in preparation for and response to future hate crimes.

317.3.2 RELEASE OF INFORMATION

Establishing a relationship with stakeholders, before any incident occurs, to develop a network and protocol for disclosure often assists greatly in any disclosure.

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The benefit of public disclosure of hate crime incidents includes:

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

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

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

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

317.4 RESPONSE, VICTIM ASSISTANCE, AND FOLLOW-UP

317.4.1 INITIAL RESPONSE

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

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

- (a) Use agency checklist (per Penal Code § 422.87) to assist in the investigation of any hate crime (see Appendix).
- (b) Stabilize the victims and request medical attention when necessary.
- (c) Properly protect the safety of victims, witnesses, and perpetrators.
 1. Assist victims in seeking a Temporary Restraining Order (if applicable).

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- (d) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- (e) Properly protect, preserve, and process the crime scene, and remove all physical evidence of the incident as soon as possible after the offense is documented. If evidence of an inflammatory nature cannot be physically removed, the property owner should be contacted to facilitate removal or covering as soon as reasonably possible. Bureau personnel should follow up with the property owner to determine if this was accomplished in a timely manner.
- (f) Collect and photograph physical evidence or indicators of hate crimes such as:
 - 1. Hate literature.
 - 2. Spray paint cans.
 - 3. Threatening letters.
 - 4. Symbols used by hate groups.
- (g) Identify criminal evidence on the victim.
- (h) Request the assistance of translators or interpreters when needed to establish effective communication with witnesses, victims, or others as appropriate.
- (i) Conduct a preliminary investigation and record pertinent information including but not limited to:
 - 1. Identity of suspected perpetrators.
 - 2. Identity of witnesses, including those no longer at the scene.
 - 3. The offer of victim confidentiality per Government Code § 6254.
 - 4. Prior occurrences in this area or with this victim.
 - 5. Statements made by suspects; exact wording is critical.
 - 6. The victim's protected characteristics and determine if bias was a motivation "in whole or in part" in the commission of the crime.
- (j) Adhere to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law.
- (k) Provide information regarding immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).
- (l) Provide the bureau's Hate Crimes Brochure (per Penal Code § 422.92) if asked, if necessary, or per policy.
- (m) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).
- (n) Document any suspected multi-mission extremist crimes.

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317.4.2 INVESTIGATION

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

- (a) Consider typologies of perpetrators of hate crimes and incidents, including but not limited to thrill, reactive/defensive, and mission (hard core).
- (b) Utilize investigative techniques and methods to handle hate crimes or hate incidents in a professional manner.
- (c) Utilize proper techniques for interviewing people with disabilities and be aware of and provide appropriate accommodations (e.g., ADA standards, Braille, visuals, translators for the deaf or hard of hearing).
- (d) Properly investigate any report of a hate crime committed under the color of authority per Penal Code § 422.6 and Penal Code § 13519.6.
- (e) Document physical evidence or indicators of hate crimes, in accordance with the provisions of the Property and Evidence Policy, such as:
 1. Hate literature.
 2. Spray paint cans.
 3. Threatening letters.
 4. Symbols used by hate groups.
 5. Desecration of religious symbols, objects, or buildings.
- (f) Request the assistance of translators or interpreters when needed to establish effective communication.
- (g) Conduct a preliminary investigation and record information regarding:
 1. Identity of suspected perpetrators.
 2. Identity of witnesses, including those no longer at the scene.
 3. Offer of victim confidentiality per Government Code § 6254.
 4. Prior occurrences, in this area or with this victim.
 5. Statements made by suspects; exact wording is critical.
 6. Document the victim's protected characteristics.
- (h) Provide victim assistance and follow-up.
- (i) Canvass the area for additional witnesses.
- (j) Examine suspect's social media activity for potential evidence of bias motivation.
- (k) Coordinate the investigation with bureau, state, and regional intelligence operations. These sources can provide the investigator with an analysis of any patterns, organized hate groups, and suspects potentially involved in the offense.

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- (l) Coordinate the investigation with the crime scene investigation unit (if applicable) or other appropriate units of the Bureau.
- (m) Determine if the incident should be classified as a hate crime.
- (n) Take reasonable steps to provide appropriate assistance to hate crime victims, including the following measures:
 - 1. Contact victims periodically to determine whether they are receiving adequate and appropriate assistance.
 - 2. Provide ongoing information to victims about the status of the criminal investigation.
 - 3. Provide victims and any other interested persons the brochure on hate crimes per Penal Code § 422.92 and information on any local advocacy groups (if asked).
- (o) Document any suspected multi-mission extremist crimes.
- (p) Coordinate with other law enforcement agencies in the area to assess patterns of hate crimes and/or hate incidents, and determine if organized hate groups are involved.

317.4.3 SUPERVISION

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

- (a) Provide immediate assistance to the crime victim by:
 - 1. Expressing the bureau's official position on the importance of these cases and the measures that will be taken to apprehend the perpetrators.
 - 2. Expressing the bureau's interest in protecting victims' anonymity (confidentiality forms, Government Code § 6254) to the extent reasonably possible. Allow the victims to convey their immediate concerns and feelings.
 - 3. Identifying individuals or agencies that may provide victim assistance and support. Local victim assistance resources may include family members or close acquaintances, clergy, or a bureau chaplain, as well as community service agencies that provide shelter, food, clothing, child care, or other related services (per Penal Code § 422.92).
- (b) Take reasonable steps to ensure that all relevant facts are documented on an incident and/or arrest report and make an initial determination as to whether the incident should be classified as a hate crime for federal and state bias-crimes reporting purposes.
- (c) Notify other appropriate personnel in the chain of command, depending on the nature and seriousness of the offense and its potential inflammatory and related impact on the community.
- (d) In cases of large-scale hate crime waves, or in circumstances where the potential exists for subsequent hate crimes or incidents, consider directing resources to protect vulnerable sites (such as assigning an investigator to specific locations that could become targets).

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- (e) Verify hate crimes are being properly reported, including reporting to the Department of Justice, pursuant to Penal Code § 13023.
- (f) Verify adherence to Penal Code § 422.93, which protects hate crime victims and witnesses from being reported to federal immigration authorities if they have not committed any crime under state law. Supervisors should also be aware of the immigration remedies available to victims of crime (e.g., U-Visa, T-Visa, S-Visa).
- (g) Respond to and properly initiate an investigation of any reports of hate crimes committed under the color of authority.
- (h) Provide appropriate assistance, including activating the California Department of Justice hate crime rapid response protocol if necessary. For additional information refer to the California Department of Justice website.
- (i) Verify reporting of any suspected multi-mission extremist crimes to the agency Hate Crimes Coordinator.
- (j) Make a final determination as to whether the incident should be classified as a hate crime and forward to the Chief Investigator for approval.

317.5 TRAINING

All members of this bureau will receive POST-approved training on hate crime recognition and investigation as provided by Penal Code § 13519.6. Training should include (Penal Code § 422.87):

- (a) Recognition of bias motivators such as ranges of attitudes and perceptions toward a specific characteristic or group, including disability bias, gender bias, and religion bias.
- (b) Accurate reporting by investigators, including information on the general underreporting of hate crimes.
- (c) Distribution of hate crime brochures.

317.6 APPENDIX

See attachments:

[Statutes and Legal Requirements.pdf](#)

[Hate Crime Checklist.pdf](#)

Standards of Conduct

318.1 PURPOSE AND SCOPE

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

318.2 POLICY

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

318.3 DIRECTIVES AND ORDERS

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

318.3.1 UNLAWFUL OR CONFLICTING ORDERS

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

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

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

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

318.3.2 SUPERVISOR RESPONSIBILITIES

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

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

318.4 GENERAL STANDARDS

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

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

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

318.5 CAUSES FOR DISCIPLINE

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

318.5.1 LAWS, RULES AND ORDERS

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

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318.5.2 ETHICS

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

318.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

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

318.5.4 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 bureau.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this bureau.
- (f) Participation in a law enforcement gang as defined by Penal Code § 13670. Participation is grounds for termination (Penal Code § 13670).

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318.5.5 ATTENDANCE

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

318.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

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

318.5.7 EFFICIENCY

- (a) Neglect of duty.
- (b) Unsatisfactory work performance including but not limited to failure, incompetence, inefficiency, or delay in performing and/or carrying out proper orders, work assignments, or the instructions of supervisors without a reasonable and bona fide excuse.
- (c) Concealing, attempting to conceal, removing, or destroying defective or incompetent work.
- (d) Unauthorized sleeping during on-duty time or assignments.
- (e) Failure to notify the Bureau within 24 hours of any change in residence address or contact numbers.
- (f) Failure to notify the Department of Human Resources of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

Standards of Conduct

318.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any 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 Amador County District Attorney's Office 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 Amador County District Attorney's Office -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 the Amador County District Attorney's Office or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Amador County District Attorney's Office or subverts the good order, efficiency and discipline of the Amador County District Attorney's Office or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - (a) While on Amador County District Attorney's Office premises.
 - (b) At any work site, while on-duty or while in uniform, or while using any Amador County District Attorney's Office equipment or system.
 - (c) Gambling activity undertaken as part of an investigator official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - (a) Unauthorized attendance while on-duty at official legislative or political sessions.
 - (b) Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or, on Amador County District Attorney's Office property except as expressly authorized by County policy, the memorandum of understanding, or the District Attorney.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by County policy, the memorandum of understanding, or the Chief Investigator.
- (i) Any act on- or off-duty that brings discredit to the Amador County District Attorney's Office.

318.5.9 CONDUCT

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- (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 the Amador County District Attorney's Office or the County.
- (g) Use of obscene, indecent or derogatory language while on-duty.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with the Amador County District Attorney's Office.
- (i) Unauthorized possession of, loss of, or damage to Amador County District Attorney's Office property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of Amador County District Attorney's Office property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of Amador County District Attorney's Office property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief Investigator of such action.
- (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of the Amador County District Attorney's Office, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon the Amador County District Attorney's Office or its members.

318.5.10 SAFETY

- (a) Failure to observe or violating Amador County District Attorney's Office 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.

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- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.
- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.
- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

318.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

Information Technology Use

319.1 PURPOSE AND SCOPE

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

319.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

319.2 POLICY

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

319.3 PRIVACY EXPECTATION

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

The Bureau reserves the right to access, audit, and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received, or reviewed over any technology that is issued or maintained by the Bureau, including the bureau email system, computer network, and/or any information placed into storage on any bureau system or device. This includes records of all keystrokes or Web-browsing history made at any bureau computer or over any bureau network. The fact that access to a database, service, or website requires a username or password will not create an expectation of privacy if it is accessed through bureau computers, electronic devices, or networks.

Information Technology Use

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

319.4 RESTRICTED USE

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

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

319.4.1 SOFTWARE

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

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

When related to criminal investigations, software program files may be downloaded only with the approval of the information systems technology (IT) staff and with the authorization of the Chief Investigator or the authorized designee.

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

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

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

319.4.2 HARDWARE

Access to technology resources provided by or through the Bureau shall be strictly limited to bureau-related activities. Data stored on or available through bureau computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or bureau-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

Information Technology Use

319.4.3 INTERNET USE

Internet access provided by or through the Bureau shall be strictly limited to bureau-related activities. Internet sites containing information that is not appropriate or applicable to bureau use and which shall not be intentionally accessed include but are not limited to adult forums, pornography, gambling, chat rooms, and similar or related internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

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

319.5 PROTECTION OF AGENCY SYSTEMS AND FILES

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the computer system.

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

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

319.6 INSPECTION OR REVIEW

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

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

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

Bureau Use of Social Media

320.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Bureau is consistent with the District Attorney's Office mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by bureau members (see the Employee Speech, Expression and Social Networking Policy).
- Use of social media in personnel processes (see the Recruitment and Selection Policy).
- Use of social media as part of a criminal investigation, other than disseminating information to the public on behalf of the District Attorney's Office (see the Investigation and Prosecution Policy).

320.1.1 DEFINITIONS

Definitions related to this policy include:

Social media - Any of a wide array of Internet-based tools and platforms that allow for the sharing of information, such as the bureau website or social networking services

320.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation may use social media as a method of effectively informing the public about District Attorney's Office services, issues, investigations and other relevant events.

Bureau members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all.

320.3 AUTHORIZED USERS

Only members authorized by the Chief Investigator or the authorized designee may utilize social media on behalf of the District Attorney's Office. Authorized members shall use only bureau-approved equipment during the normal course of duties to post and monitor bureau-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief Investigator may develop specific guidelines identifying the type of content that may be posted. Any content that does not strictly conform to the guidelines should be approved by a supervisor prior to posting.

Requests to post information over bureau social media by members who are not authorized to post should be made through the member's chain of command.

Bureau Use of Social Media

320.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the District Attorney's Office mission and conforms to all bureau policies regarding the release of information may be posted.

Examples of appropriate content include:

- (a) Announcements.
- (b) Tips and information related to crime prevention.
- (c) Investigative requests for information.
- (d) Requests that ask the community to engage in projects that are relevant to the District Attorney's Office mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings or disaster information.
- (f) Press releases.
- (g) Recruitment of personnel.

320.4.1 INCIDENT-SPECIFIC USE

In instances of active incidents where speed, accuracy and frequent updates are paramount (e.g., crime alerts, public safety information, traffic issues), the District Attorney or the authorized designee will be responsible for the compilation of information to be released.

320.5 PROHIBITED CONTENT

Content that is prohibited from posting includes, but is not limited to:

- (a) Content that is abusive, discriminatory, inflammatory or sexually explicit.
- (b) Any information that violates individual rights, including confidentiality and/or privacy rights and those provided under state, federal or local laws.
- (c) Any information that could compromise an ongoing investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation or professionalism of the Amador County District Attorney's Office Bureau of Investigation or its members.
- (e) Any information that could compromise the safety and security of Bureau operations, members of the District Attorney's Office, victims, suspects or the public.
- (f) Any content posted for personal use.
- (g) Any content that has not been properly authorized by this policy or a supervisor.

Any member who becomes aware of content on the District Attorney's Office's social media site that he/she believes is unauthorized or inappropriate should promptly report such content to a supervisor. The supervisor will ensure its removal from public view and investigate the cause of the entry.

Bureau Use of Social Media

320.6 MONITORING CONTENT

The Chief Assistant District Attorney will appoint an employee to review, at least annually, the use of the District Attorney's Office social media and report back on, at a minimum, the resources being used, the effectiveness of the content, any unauthorized or inappropriate content and the resolution of any issues.

320.7 RETENTION OF RECORDS

The Chief Assistant District Attorney should work with IT to establish a method of ensuring that public records generated in the process of social media use are retained in accordance with established records retention schedules.

320.8 TRAINING

Authorized members should receive training that, at a minimum, addresses legal issues concerning the appropriate use of social media sites, as well as privacy, civil rights, dissemination and retention of information posted on bureau sites.

Report Preparation

321.1 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. Report writing is the subject of substantial formalized training and on-the-job training.

321.1.1 REPORT PREPARATION

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

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

321.2 REQUIRED REPORTING

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

321.2.1 CRIMINAL ACTIVITY

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

- (a) All arrests
- (b) All felony crimes
- (c) Non-Felony incidents involving threats or stalking behavior
- (d) Situations covered by separate policy. These include:
 - 1. Use of Force Policy
 - 2. Domestic Violence Policy
 - 3. Child Abuse Policy
 - 4. Senior and Disability Victimization Policy
 - 5. Hate Crimes Policy
 - 6. Suspicious Activity Reporting Policy
- (e) All misdemeanor crimes where the victim desires a report

Report Preparation

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

321.2.2 NON-CRIMINAL ACTIVITY

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

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

321.2.3 DEATH CASES

Death investigations require specific investigation methods depending on circumstances and should be handled in accordance with the Death Investigations Policy. The handling investigator should notify and apprise a supervisor of the circumstances surrounding the incident to determine how to proceed. The following cases shall be appropriately investigated and documented using the approved report:

- (a) Sudden or accidental deaths.
- (b) Suicides.
- (c) Homicide or suspected homicide.
- (d) Unattended deaths (No physician or qualified hospice care in the 20 days preceding death).
- (e) Found dead bodies or body parts.

Report Preparation

321.2.4 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.

321.2.5 MISCELLANEOUS INJURIES

Any injury that is reported to this bureau shall require a report when:

- (a) The injury is a result of drug overdose
- (b) Attempted suicide
- (c) The injury is major/serious, whereas death could result
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to record the event

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

321.2.6 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 Amador County District Attorney's Office shall notify the California Department of Public Health (CDPH) of the incident as required by CDPH (Penal Code § 23685).

321.3 GENERAL POLICY OF EXPEDITIOUS REPORTING

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

321.3.1 GENERAL POLICY OF HANDWRITTEN REPORTS

Some incidents and report forms lend themselves to block print rather than typing. In general, the narrative portion of those reports where an arrest is made or when there is a long narrative should be typed or dictated.

Supervisors may require, with the foregoing general policy in mind, block printing or typing of reports of any nature for bureau consistency.

321.3.2 GENERAL USE OF OTHER HANDWRITTEN FORMS

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

Report Preparation

321.4 REPORT CORRECTIONS

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

321.5 REPORT CHANGES OR ALTERATIONS

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

Media Relations

322.1 PURPOSE AND SCOPE

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

322.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the District Attorney.

322.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the District Attorney, 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 bureau make any comment or release any official information to the media without prior approval from a supervisor or the District Attorney.
- (b) In situations involving multiple law enforcement agencies, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this bureau.
- (c) Under no circumstance should any member of this bureau make any comments to the media regarding any law enforcement incident not involving this bureau without prior approval of the Chief Investigator.

322.3 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.
 - 1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should be coordinated through the District Attorney or other designated spokesperson.
 - 2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the investigator should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Supervising Investigator. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If

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the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR 91.137).

- (c) No member of this bureau who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Bureau 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.

322.3.1 PROVIDING ADVANCE INFORMATION

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

Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception the Chief Investigator will consider, at 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.

322.4 SCOPE OF INFORMATION SUBJECT TO RELEASE

At no time shall identifying information pertaining to a juvenile arrestee (13 years of age and under), victim or witness be publicly released without prior approval of a competent court. The identity of a minor 14 years of age or older shall not be publicly disclosed unless the minor has been arrested for a serious felony and the release of such information has been approved by the District Attorney (Welfare and Institutions Code § 827.5).

Identifying information concerning deceased individuals shall not be released to the media until notification of next of kin or otherwise cleared through the Coroner's Office.

Any requests for copies of related reports or additional information shall be referred to the District Attorney, the Chief Assistant District Attorney, or if unavailable, to the Chief Investigator. Such requests will generally be processed in accordance with the provisions of the Public Records Act (Government Code § 6250, et seq.).

322.4.1 RESTRICTED INFORMATION

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this bureau. When in doubt, authorized and available legal counsel should be obtained.

Subpoenas and Court Appearances

323.1 PURPOSE AND SCOPE

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

323.2 POLICY

Amador County District Attorney's Office Bureau of Investigation members will respond appropriately to all subpoenas and any other court-ordered appearances.

323.3 SUBPOENAS

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

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

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

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

If, after initially accepting service of a criminal subpoena, a supervisor or other authorized individual determines that he/she is unable to deliver a copy of the subpoena to the named investigator within sufficient time for the named investigator to comply with the subpoena, the supervisor 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)).

323.3.1 SPECIAL NOTIFICATION REQUIREMENTS

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

- (a) Any civil case where the County or one of its members, as a result of his/her official capacity, is a party.

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

The supervisor will then notify the Chief Investigator and the appropriate prosecuting attorney as may be indicated by the case. The Chief Investigator should determine if additional legal support is necessary.

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

323.3.2 CIVIL SUBPOENA

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

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

323.3.3 OFF-DUTY RELATED SUBPOENAS

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

323.4 FAILURE TO APPEAR

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

323.5 STANDBY

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

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

323.6 COURTROOM PROTOCOL

When appearing in court, members shall:

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- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in business attire.
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

323.6.1 TESTIMONY

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

323.7 OVERTIME APPEARANCES

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

Outside Agency Assistance

324.1 PURPOSE AND SCOPE

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

324.2 POLICY

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

324.3 ASSISTING OUTSIDE AGENCIES

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

When another law enforcement agency requests assistance from this bureau, the Chief Investigator or Supervising Investigator may authorize, if available, an appropriate number of personnel to assist. Members are reminded that their actions when rendering assistance must conform with applicable laws and be consistent with the policies of this bureau.

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

Arrestees may be temporarily detained by this bureau until arrangements for transportation are made by the outside agency. Probation violators who are temporarily detained by this bureau will not ordinarily be booked at this bureau. Only in exceptional circumstances, and subject to supervisor approval, will this bureau provide transportation of arrestees to other facilities on behalf of another agency.

When transportation assistance is rendered, a report shall be prepared and submitted by the handling member unless otherwise directed by a supervisor.

324.3.1 INITIATED ACTIVITY

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

324.4 REQUESTING OUTSIDE ASSISTANCE

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

Outside Agency Assistance

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

324.5 REPORTING REQUIREMENTS

Incidents of outside assistance or law enforcement activities that are not documented in a crime report shall be documented in a general case report or as directed by the Chief Investigator or Supervising Investigator.

324.6 MANDATORY SHARING

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

The documentation should include:

- (a) The conditions relative to sharing.
- (b) The training requirements for:
 - 1. The use of the supplies and equipment.
 - 2. The members trained in the use of the supplies and equipment.
- (c) Any other requirements for use of the equipment and supplies.

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

The Supervising Investigator should maintain documentation that the appropriate members have received the required training.

Major Incident Notification

325.1 PURPOSE AND SCOPE

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

325.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this bureau to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

325.3 MINIMUM CRITERIA FOR NOTIFICATION

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

- Homicides
- Officer-involved shooting - on or off duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Death of a prominent Amador County official
- Arrest of a bureau employee or prominent Amador County official
- Aircraft crash with major damage and/or injury or death

325.4 STAFF NOTIFICATION

In the event an incident occurs described in the Major Incident Notification Policy, the Chief Investigator shall be notified along with the District Attorney.

325.5 INVESTIGATOR NOTIFICATION

If the incident requires that an investigator respond from home, the Supervising Investigator or Chief Investigator shall be contacted who will then contact the appropriate investigator.

325.6 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.

Death Investigation

326.1 PURPOSE AND SCOPE

The investigations of cases involving death include those ranging from natural cause to homicide. Some causes of death may not be readily apparent and some cases differ substantially from what they appeared to be initially. The thoroughness of death investigations cannot be emphasized enough.

326.2 INVESTIGATION CONSIDERATIONS

Death investigation cases require certain actions be taken. Paramedics shall be called in all suspected death cases unless the death is obvious (e.g., decapitated, decomposed). A supervisor shall be notified in all death investigations.

326.2.1 CORONER REQUEST

Government Code § 27491 and Health & Safety Code § 102850 direct the Coroner to inquire into and determine the circumstances, manner and cause of certain deaths. The Coroner shall be called in any of the following cases:

- (a) Unattended deaths (No physician in attendance or during the continued absence of the attending physician. Also, includes all deaths outside hospitals and nursing care facilities).
- (b) Deaths where the deceased has not been attended by either a physician or a registered nurse, who is a member of a hospice care interdisciplinary team, as defined by Health and Safety Code § 1746 in the 20 days prior to death.
- (c) Physician unable to state the cause of death. Unwillingness does not apply. Includes all sudden, unexpected and unusual deaths and fetal deaths when the underlying cause is unknown.
- (d) Known or suspected homicide.
- (e) Known or suspected suicide.
- (f) Involving any criminal action or suspicion of a criminal act. Includes child and dependent adult negligence and abuse.
- (g) Related to or following known or suspected self-induced or criminal abortion.
- (h) Associated with a known or alleged rape or crime against nature.
- (i) Following an accident or injury (primary or contributory). Deaths known or suspected as resulting (in whole or in part) from or related to accident or injury, either old or recent.
- (j) Drowning, fire, hanging, gunshot, stabbing, cutting, starvation, exposure, alcoholism, drug addiction, strangulation or aspiration.
- (k) Accidental poisoning (food, chemical, drug, therapeutic agents).

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- (l) Occupational diseases or occupational hazards.
- (m) Known or suspected contagious disease and constituting a public hazard.
- (n) All deaths in operating rooms and all deaths where a patient has not fully recovered from an anesthetic, whether in surgery, recovery room or elsewhere.
- (o) In prison or while under sentence. Includes all in-custody and district attorney's office involved deaths.
- (p) All deaths of unidentified persons.
- (q) All deaths of state hospital patients.
- (r) Suspected Sudden Infant Death Syndrome (SIDS) deaths.
- (s) All deaths where the patient is comatose throughout the period of the physician's attendance. Includes patients admitted to hospitals unresponsive and expire without regaining consciousness.

The body shall not be disturbed or moved from the position or place of death without permission of the coroner.

326.2.2 SEARCHING DEAD BODIES

The Coroner or Deputy Coroner is generally the only person permitted to search a body known to be dead from any of the circumstances set forth in Government Code § 27491. The only exception is that an investigator is permitted to search the body of a person killed in a traffic collision for the limited purpose of locating an anatomical donor card (Government Code § 27491.3). If such a donor card is located, the Coroner or a designee shall be promptly notified. Should exigent circumstances indicate to an investigator that any search of a known dead body is warranted prior to the arrival of the Coroner or a designee; the investigating investigator shall first obtain verbal consent from the Coroner or a designee (Government Code § 27491.2).

Whenever possible, a witness, preferably a relative to the deceased or a member of the household, should be requested to remain at the scene with the investigator pending the arrival of the Coroner or a designee. The name and address of this person shall be included in the narrative of the death report. Whenever personal effects are removed from the body of the deceased by the Coroner or a designee, a receipt shall be obtained. This receipt shall be attached to the death report.

326.2.3 DEATH NOTIFICATION

If not handled by the Coroner's Office or the agency with primary jurisdiction, notification to the next-of-kin of the deceased person shall be made, in person, by the investigator assigned to the incident. If the next-of-kin lives in another jurisdiction, a law enforcement official from that jurisdiction shall be requested to make the personal notification. If the relatives live outside this county, the Coroner may be requested to make the notification. The Coroner needs to know if notification has been made. Assigned investigators may need to talk to the next-of-kin.

Death Investigation

326.2.4 UNIDENTIFIED DEAD BODIES

If the identity of a dead body cannot be established after the Coroner arrives, the Coroner's office will issue a "John Doe" or "Jane Doe" number for the report.

326.2.5 DEATH INVESTIGATION REPORTING

All incidents involving a death shall be documented on the appropriate form.

326.2.6 SUSPECTED HOMICIDE

If the initially assigned investigator suspects that the death involves a homicide or other suspicious circumstances, the Supervising Investigator or Chief Investigator shall be notified to determine the possible need for additional investigators to respond to the scene for further immediate investigation.

326.2.7 EMPLOYMENT RELATED DEATHS OR INJURIES

Any member of this agency who responds to and determines that a death, serious illness, or serious injury has occurred as a result of an accident at or in connection with the victim's employment shall ensure that the nearest office of Cal-OSHA is notified by telephone immediately or as soon as practicable with all pertinent information (8 CCR 342(b)).

Identity Theft

327.1 PURPOSE AND SCOPE

Identity theft is a growing trend that frequently involves related crimes in multiple jurisdictions. This policy is intended to provide guidelines for the reporting and investigation of such crimes.

327.2 REPORTING

In an effort to maintain uniformity in reporting, investigators presented with the crime of identity theft (Penal Code § 530.6) shall advise the victim to contact the agency of jurisdiction to complete a report.

Communications with Persons with Disabilities

328.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

328.1.1 DEFINITIONS

Definitions related to this policy include:

Auxiliary aids - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

Disability or impairment - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102).

Qualified interpreter - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

328.2 POLICY

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

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

328.3 FACTORS TO CONSIDER

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this bureau should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members

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should ask the individual to communicate back or otherwise demonstrate their understanding.

- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

328.4 INITIAL AND IMMEDIATE CONSIDERATIONS

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

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

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

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

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

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

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

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

Communications with Persons with Disabilities

328.5 TYPES OF ASSISTANCE AVAILABLE

Amador County District Attorney's Office Bureau of Investigation members shall never refuse to assist an individual with disabilities who is requesting assistance. The Bureau will not charge anyone to receive auxiliary aids, nor shall they require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Bureau will make every reasonable effort to provide equal access and timely assistance to individuals who are disabled through a variety of services.

A person who is disabled may choose to accept bureau-provided auxiliary aids or services or they may choose to provide their own.

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

328.6 AUDIO RECORDINGS AND ENLARGED PRINT

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

328.7 QUALIFIED INTERPRETERS

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

Qualified interpreters should be:

- (a) Available within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use bureau-approved procedures to request a qualified interpreter at the earliest reasonable opportunity. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

Communications with Persons with Disabilities

328.8 TTY AND RELAY SERVICES

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

328.9 COMMUNITY VOLUNTEERS

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

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

328.10 FAMILY AND FRIENDS

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

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

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

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

328.11 REPORTING

Whenever any member of this bureau is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Bureau or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

Communications with Persons with Disabilities

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

328.12 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Bureau recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this bureau. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the investigator is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, investigators should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

328.12.1 FIELD RESOURCES

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

Communications with Persons with Disabilities

328.13 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this bureau will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

328.14 ARREST AND BOOKINGS

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

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

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

328.15 COMPLAINTS

The Bureau shall ensure that individuals with disabilities who wish to file a complaint regarding members of this bureau are able to do so. The Bureau may provide a qualified interpreter or forms in enlarged print, as appropriate.

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

Communications with Persons with Disabilities

328.16 COMMUNITY OUTREACH

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

328.17 TRAINING

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

- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.
- (c) Working with in-person and telephone interpreters and related equipment.

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

Private Persons Arrests

329.1 PURPOSE AND SCOPE

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

329.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

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

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

329.3 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.

329.4 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.

Private Persons Arrests

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

329.5 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a bureau Private Person's Arrest form under penalty of perjury.

In addition to the Private Person's Arrest Form (and any other related documents such as citations, booking forms, etc.), investigators shall complete a narrative report regarding the circumstances and disposition of the incident.

Anti-Reproductive Rights Crimes Reporting

330.1 PURPOSE AND SCOPE

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

330.2 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

330.3 REPORTING REQUIREMENTS TO THE ATTORNEY GENERAL

- (a) Upon the receipt of the report of an ARRC, it shall be the responsibility of the employee taking such a report to also complete an ARRC Data Collection Worksheet (BCIA 8371) in accordance with the instructions contained on such forms.
- (b) The ARRC Data Collection Worksheet shall be processed with all related reports and forwarded to the Investigation Bureau Chief.
- (c) By the tenth day of each month, it shall be the responsibility of the Investigation Bureau Chief 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.

Anti-Reproductive Rights Crimes Reporting

2. Any ARRC(s) reported in the Summary Worksheet shall be accompanied by a copy of the related Data Collection Worksheet(s).

Limited English Proficiency Services

331.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

331.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized interpreter - A person who has been screened and authorized by the Bureau to act as an interpreter and/or translator for others.

Interpret or interpretation - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

Limited English proficient (LEP) - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

Qualified bilingual member - A member of the Amador County District Attorney's Office Bureau of Investigation, designated by the Bureau, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

Translate or translation - The replacement of written text from one language (source language) into an equivalent written text (target language).

331.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to reasonably ensure that LEP individuals have meaningful access to law enforcement services, programs and activities, while not imposing undue burdens on its members.

The Bureau will not discriminate against or deny any individual access to services, rights or programs based upon national origin or any other protected interest or right.

331.3 TYPES OF LEP ASSISTANCE AVAILABLE

Amador County District Attorney's Office Bureau of Investigation members should never refuse service to an LEP individual who is requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Bureau will make

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every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Bureau will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept bureau-provided LEP services at no cost or they may choose to provide their own.

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

331.4 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The investigator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

331.5 AUTHORIZED INTERPRETERS

Any person designated by the Bureau to act as an authorized interpreter and/or translator must have demonstrated competence in both English and the involved non-English language, must have an understanding of the functions of an interpreter that allows for correct and effective translation, and should not be a person with an interest in the bureau case or investigation involving the LEP individual. A person providing interpretation or translation services may be required to establish the accuracy and trustworthiness of the interpretation or translation in a court proceeding.

Authorized interpreters must pass a screening process established by the District Attorney's Office which demonstrates that their skills and abilities include:

- (a) The competence and ability to communicate information accurately in both English and in the target language.
- (b) Knowledge, in both languages, of any specialized terms or concepts peculiar to this bureau and of any particularized vocabulary or phraseology used by the LEP individual.
- (c) The ability to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (d) Knowledge of the ethical issues involved when acting as a language conduit.

331.5.1 SOURCES OF AUTHORIZED INTERPRETERS

The Bureau may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

- Qualified bilingual members of this bureau or personnel from other County departments.

Limited English Proficiency Services

- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this bureau, and with whom the Bureau has a resource-sharing or other arrangement that they will interpret according to bureau guidelines.

331.5.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Bureau to communicate with LEP individuals.

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

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

331.6 CONTACT AND REPORTING

Whenever any member of this bureau is required to complete a report or other documentation, and interpretation services are provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services utilized and whether the individual elected to use services provided by the Bureau or some other identified source.

331.7 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The Amador County District Attorney's Office Bureau of Investigation will take reasonable steps and will work with the Department of Human Resources to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

331.8 FIELD ENFORCEMENT

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary.

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Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the investigator is unable to effectively communicate with an LEP individual.

If available, investigators should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

331.9 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, investigators should consider calling for an authorized interpreter in the following order:

- An authorized bureau member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

331.10 CUSTODIAL INTERROGATIONS

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

Limited English Proficiency Services

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

331.11 BOOKINGS

When gathering information during the booking process, members should remain alert to the impediments that language barriers can create. In the interest of the arrestee's health and welfare, the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information be obtained. Members should seek the assistance of a qualified bilingual member whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by an LEP individual.

331.12 COMPLAINTS

The Bureau shall ensure that LEP individuals who wish to file a complaint regarding members of this bureau are able to do so. The Bureau may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this bureau.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

331.13 COMMUNITY OUTREACH

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

331.14 TRAINING

To ensure that all members who may have contact with LEP individuals are properly trained, the Bureau will provide periodic training on this policy and related procedures, including how to access bureau-authorized telephonic and in-person interpreters and other available resources.

Mandatory Employer Notification

332.1 PURPOSE AND SCOPE

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

332.2 POLICY

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

332.3 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING

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

332.3.1 ARREST OF PUBLIC SCHOOL TEACHER

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

332.3.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE

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

332.3.3 ARREST OF PRIVATE SCHOOL TEACHER

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

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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).

332.3.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR

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

332.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES

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

Child and Dependent Adult Safety

333.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this bureau (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Senior and Disability Victimization policies.

333.2 POLICY

It is the policy of this bureau to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Amador County District Attorney's Office Bureau of Investigation will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

333.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, investigators should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, investigators should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Investigators should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, investigators should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, investigators should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the investigator at the

Child and Dependent Adult Safety

scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

333.3.1 AFTER AN ARREST

Whenever an arrest is made, the investigator should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

Investigators should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
 1. Investigators should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), investigators should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
 1. Except when a court order exists limiting contact, the investigator should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.
- (e) Notify the Supervising Investigator of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting investigator should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

333.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

Child and Dependent Adult Safety

If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

333.3.3 REPORTING

- (a) For all arrests where children are present or living in the household, the reporting member will document the following information:
 - 1. Name
 - 2. Sex
 - 3. Age
 - 4. Special needs (e.g., medical, mental health)
 - 5. How, where and with whom or which agency the child was placed
 - 6. Identities and contact information for other potential caregivers
 - 7. Notifications made to other adults (e.g., schools, relatives)
- (b) For all arrests where dependent adults are present or living in the household, the reporting member will document the following information:
 - 1. Name
 - 2. Sex
 - 3. Age
 - 4. Whether he/she reasonably appears able to care for him/herself
 - 5. Disposition or placement information if he/she is unable to care for him/herself

333.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling investigators, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

333.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling investigator should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the district attorney's office facility, transported in a marked patrol car, or taken into formal protective custody.

Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

Child and Dependent Adult Safety

333.5 TRAINING

The Supervising Investigator is responsible to ensure that all personnel of this bureau who may be involved in arrests affecting children or dependent adults receive approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

Service Animals

334.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA).

334.1.1 DEFINITIONS

Definitions related to this policy include:

Service animal - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104; Health and Safety Code § 113903).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

334.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to provide services and access to persons with service animals in the same manner as those without service animals. Bureau members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

334.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.

Service Animals

- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

334.4 MEMBER RESPONSIBILITIES

Service animals that are assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Bureau members are expected to treat individuals with service animals with the same courtesy and respect that the Amador County District Attorney's Office Bureau of Investigation affords to all members of the public (28 CFR 35.136).

334.4.1 INQUIRY

If it is apparent or if a member is aware that an animal is a service animal, the individual generally should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the member should ask the individual only the following questions (28 CFR 35.136(f)):

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal and no further questions as to the animal's status should be asked. The individual should not be questioned about his/her disability nor should the person be asked to provide any license, certification or identification card for the service animal.

334.4.2 CONTACT

Service animals are not pets. Bureau members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

334.4.3 REMOVAL

If a service animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, an investigator may direct the handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the service animal (28 CFR 35.136(b)).

Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this bureau are expected to provide all services as are reasonably available to an individual with a disability, with or without a service animal.

Service Animals

334.4.4 COMPLAINTS

When handling a complaint regarding a service animal, members of this bureau should remain neutral and should be prepared to explain the ADA requirements concerning service animals to the concerned parties. Businesses are required to allow service animals to accompany their handlers into the same areas that other customers or members of the public are allowed (28 CFR 36.302).

Absent a violation of law independent of the ADA, investigators should take no enforcement action beyond keeping the peace. Individuals who believe they have been discriminated against as a result of a disability should be referred to the Civil Rights Division of the U.S. Department of Justice (DOJ).

Volunteer Program

335.1 PURPOSE AND SCOPE

It is the policy of this bureau to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Bureau and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn investigators and civilian personnel. Volunteers can be an important part of any organization and are proven to be a valuable asset to law enforcement agencies. Volunteers help to increase bureau responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Bureau and prompt new enthusiasm.

335.1.1 DEFINITION OF VOLUNTEER

An individual who performs a service for the Bureau without promise, expectation or receipt of compensation for services rendered. This includes interns and persons providing administrative support.

335.2 VOLUNTEER MANAGEMENT

335.2.1 SCREENING

All prospective volunteers should complete the Amador County volunteer application form. The Chief Investigator or designee should conduct a face-to-face interview with an applicant under consideration.

A documented background investigation shall be completed on each volunteer applicant and shall include, but not necessarily be limited to, the following:

- (a) Traffic and criminal background check. Fingerprints shall be obtained from all applicants and processed through the California Criminal Information Index.
- (b) Employment
- (c) References
- (d) Credit check

335.2.2 SELECTION AND PLACEMENT

Service as a volunteer with the Bureau shall begin with an official notice of acceptance or appointment to a volunteer position. Notice may only be given by an authorized representative of the Bureau, who will normally be the District Attorney. No volunteer should begin any assignment until they have been officially accepted for that position and completed all required screening and paperwork.

Volunteers should be placed only in assignments or programs that are consistent with their knowledge, skills, abilities and the needs of the Bureau.

Volunteer Program

335.2.3 TRAINING

Volunteers will be provided with policies and procedures that have a direct impact on their work assignment.

Volunteers should receive position-specific training to ensure they have adequate knowledge and skills to complete tasks required by the position and should receive periodic ongoing training as deemed appropriate by their supervisor.

Training should reinforce to volunteers that they may not intentionally represent themselves as, or by omission infer that they are sworn investigators or other full-time members of the Bureau. They shall always represent themselves as volunteers.

All volunteers shall comply with the rules of conduct and with all orders and directives, either oral or written, issued by the Bureau.

335.2.4 FITNESS FOR DUTY

No volunteer shall report to work or be on-duty when his/her judgment or physical condition has been impaired by alcohol, medication, other substances, illness or injury.

Volunteers shall report to their supervisor any changes in status that may affect their ability to fulfill their duties. This includes, but is not limited to, the following:

- (a) Driver license
- (b) Medical condition
- (c) Arrests
- (d) Criminal investigations

All volunteers shall adhere to the guidelines set forth by this bureau regarding drug and alcohol use.

335.2.5 DRESS CODE

As representatives of the Bureau, volunteers are responsible for presenting a professional image to the community. Volunteers shall dress appropriately for the conditions and performance of their duties.

Volunteers shall conform to bureau-approved dress consistent with their duty assignment..

Volunteers shall be required to return any issued bureau property at the termination of service.

335.3 SUPERVISION OF VOLUNTEERS

Each volunteer who is accepted to a position with the Bureau must have a clearly identified supervisor who is responsible for direct management of that volunteer. This supervisor will be responsible for day-to-day management and guidance of the work of the volunteer and should be available to the volunteer for consultation and assistance.

Volunteer Program

Functional supervision of volunteers is the responsibility of the Supervising Investigator. Following are some considerations to keep in mind while supervising volunteers:

- (a) Take the time to introduce volunteers to employees on all levels.
- (b) Ensure volunteers have work space and necessary office supplies.
- (c) Make sure the work is challenging. Do not hesitate to give them an assignment or task that will tap these valuable resources.

335.4 CONFIDENTIALITY

With appropriate security clearance, volunteers may have access to confidential information such as criminal histories or investigative files. Unless otherwise directed by a supervisor or bureau policy, all information shall be considered confidential. Only that information specifically identified and approved by authorized personnel shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by bureau policy and supervisory personnel.

Each volunteer will be required to sign a nondisclosure agreement before being given an assignment with the Bureau. Subsequent unauthorized disclosure of any confidential information, verbally, in writing or by any other means, by the volunteer is grounds for immediate dismissal and possible criminal prosecution.

Volunteers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to a newspaper or other periodical, release or divulge any information concerning the activities of the Bureau, or maintain that they represent the Bureau in such matters without permission from the proper bureau personnel.

335.5 PROPERTY AND EQUIPMENT

Volunteers will be issued an identification card that must be carried at all times while on-duty. Any fixed and portable equipment issued by the Bureau shall be for official and authorized use only. Any property or equipment issued to a volunteer shall remain the property of the Bureau and shall be returned at the termination of service.

335.5.1 VEHICLE USE

Volunteers assigned to duties that require the use of a vehicle must first complete the following:

- (a) Verification that the volunteer possesses a valid California Driver License.
- (b) Verification that the volunteer carries current vehicle insurance.

The Chief Investigator should insure that all volunteers receive license and insurance verification at least once a year.

Volunteer Program

When operating a Bureau vehicle, volunteers shall obey all rules of the road, including seat belt requirements. Smoking is prohibited in all Bureau vehicles.

Volunteers are not authorized to operate a Bureau vehicle Code-3.

335.6 DISCIPLINARY PROCEDURES/TERMINATION

A volunteer may be removed from the volunteer program at the discretion of the Chief Investigator. Volunteers shall have no property interests in their continued appointment. However, if a volunteer is removed for alleged misconduct, the volunteer will be afforded an opportunity solely to clear his/her name through a liberty interest hearing which shall be limited to a single appearance before the Chief Investigator or authorized designee.

Volunteers may resign from volunteer service with the Bureau at any time. It is requested that volunteers who intend to resign provide advance notice of their departure and a reason for their decision.

335.6.1 EXIT INTERVIEWS

Exit interviews, where possible, should be conducted with volunteers who are leaving their positions. The interview should ascertain why the volunteer is leaving the position and solicit the volunteer's suggestions on improving the position. When appropriate, the interview should also include a discussion on the possibility of involvement in some other capacity with the Bureau.

Off-Duty Law Enforcement Actions

336.1 PURPOSE AND SCOPE

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

336.2 POLICY

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

Investigators are not expected to place themselves in unreasonable peril. However, any sworn member of this bureau who becomes aware of an incident or circumstance that 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.

336.3 FIREARMS

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

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

336.4 DECISION TO INTERVENE

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

- (a) The tactical disadvantage of being alone and the fact there may be multiple or hidden suspects.
- (b) The inability to communicate with responding units.

Off-Duty Law Enforcement Actions

- (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.

336.4.1 INTERVENTION PROCEDURE

If involvement is reasonably necessary the investigator should attempt to call or have someone else call 9-1-1 to request immediate assistance. The dispatcher should be informed that an off-duty investigator is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the investigator should loudly and repeatedly identify him/herself as a DA investigator until acknowledged. Official identification should also be displayed.

336.4.2 INCIDENTS OF PERSONAL INTEREST

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

336.4.3 NON-SWORN RESPONSIBILITIES

Non-sworn personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

336.4.4 OTHER CONSIDERATIONS

When encountering a non-uniformed investigator in public, uniformed investigators should wait for acknowledgement by the non-uniformed investigator in case he/she needs to maintain an undercover capability.

336.5 REPORTING

Any off-duty investigator who engages in any law enforcement activity, regardless of jurisdiction, shall notify the Supervising Investigator as soon as practicable. The Supervising 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.

Gun Violence Restraining Orders

337.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for petitioning and serving gun violence restraining orders and accounting for the firearms obtained pursuant to those orders (Penal Code § 18108).

337.1.1 DEFINITIONS

Definitions related to this policy include:

Gun violence restraining order - Civil restraining order prohibiting a named person from controlling, owning, purchasing, possessing, receiving, or otherwise having custody of any firearms or ammunition, including an ammunition magazine (Penal Code § 18100).

337.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to petition for and serve gun violence restraining orders in compliance with state law and to properly account for firearms and ammunition obtained by the Bureau pursuant to such orders.

337.3 GUN VIOLENCE RESTRAINING ORDERS

An investigator who reasonably believes a person is a present danger to self or another person by controlling, owning, purchasing, possessing, receiving, or otherwise having custody of a firearm may request permission from the investigator's supervisor to petition the court for a gun violence restraining order.

Investigators petitioning the court should use the forms established by the Judicial Council (Penal Code § 18105). The petition should describe the number, types, and locations of any firearms and ammunition that the investigator believes to be possessed or controlled by the person (Penal Code § 18107). The petition should also describe why less-restrictive alternatives are ineffective or inadequate for the circumstances (Penal Code § 18125; Penal Code § 18150; Penal Code § 18175).

If it is not practical under the circumstances to submit a written petition, an investigator may submit the petition electronically or orally request a temporary order (Penal Code § 18122; Penal Code § 18140).

337.3.1 ADDITIONAL CONSIDERATIONS

Investigators should also consider requesting permission to petition the court for a gun violence restraining order (Penal Code § 18108):

- (a) When responding to a domestic disturbance where the residence is associated with a firearm registration or record.
- (b) When responding to any call or incident when a firearm is present or when one of the involved parties owns or possesses a firearm.

Gun Violence Restraining Orders

- (c) During a contact with a person exhibiting mental health issues, including suicidal thoughts, statements, or actions if that person owns or possesses a firearm.

Investigators should consider obtaining a mental health evaluation if the encounter involves a situation where there is a reasonable cause to believe that the person poses an immediate and present danger of causing personal injury to themselves or another person by having custody or control of a firearm (see the Mental Illness Commitments Policy) (Penal Code § 18108).

337.4 SERVICE OF GUN VIOLENCE RESTRAINING ORDERS

An investigator serving any gun violence restraining order shall:

- (a) Verbally ask the subject of the order if he/she has any firearm, ammunition, or magazine in his/her possession or under his/her custody or control (Penal Code § 18160).
- (b) Request that any firearms or ammunition be immediately surrendered and issue a receipt for the surrendered items (Penal Code § 18120).
- (c) Take into temporary custody any firearm or other deadly weapon discovered in plain view or pursuant to consent or other lawful search (Penal Code § 18250).
- (d) Inform the restrained person of any scheduled hearing regarding the order (Penal Code § 18160).
- (e) Transmit the original proof of service form to the issuing court as soon as practicable but within one business day (Penal Code § 18115).
- (f) As soon as practicable, but by the end of his/her shift, submit proof of service to the Amador County Sheriff's Office Dispatch for prompt entry into the California Restraining and Protective Order System (Penal Code § 18115).

The investigator should also inform the restrained person that he/she is required, within 24 hours, to surrender to a law enforcement agency any other firearms and ammunition he/she owns or that are in his/her custody or control or sell them to a firearms dealer. This notification should be documented.

All firearms and ammunition collected shall be handled and booked in accordance with the Property and Evidence Policy.

337.4.1 TEMPORARY EMERGENCY GUN VIOLENCE RESTRAINING ORDERS

An investigator requesting a temporary emergency gun violence restraining order shall (Penal Code § 18140):

- (a) For oral requests, sign a declaration under penalty of perjury reciting the oral statements provided to the judicial officer and memorialize the order of the court on the form approved by the Judicial Council.
- (b) Serve the order on the restrained person if the person can be reasonably located.
- (c) Forward a copy of the order to the Legal Secretary Supervisor for filing with the court and appropriate databases.

Gun Violence Restraining Orders

337.5 SEARCH WARRANTS

If a person who has been served with a gun violence restraining order refuses to surrender any firearm or ammunition, the investigator should consider whether to seek a search warrant. If a search warrant is to be obtained, the preparation and service of the search warrant shall be done in accordance with the Warrant Service Policy. Additionally, (Penal Code § 1542.5):

- (a) The investigator serving the warrant shall take custody of any firearm or ammunition that is controlled, possessed or owned by the person who is the subject of the gun violence restraining order, including any discovered pursuant to the warrant, a consensual search or other lawful search.
- (b) If the location being searched is jointly occupied and the firearm or ammunition is owned by a person other than the restrained person, the firearm or ammunition should not be seized if the following conditions are met:
 - 1. The firearm or ammunition can be stored in a manner that does not allow the restrained person to have control or access.
 - 2. There is no evidence that the owner unlawfully possesses the firearm or ammunition.
- (c) If a locked gun safe belonging to someone other than the subject of a gun violence restraining order is discovered, the investigator shall not search the contents of the safe unless the owner consents or there is a valid search warrant for the safe. Any search of the safe must be done in the owner's presence.

337.6 COURT-ORDERED FIREARMS AND AMMUNITION SURRENDERS

Authorized members shall accept firearms and ammunition from any individual who is the subject of a gun violence restraining order. The member receiving any firearm or ammunition shall:

- (a) Record the individual's name, address and telephone number.
- (b) Record the serial number of the firearm.
- (c) Prepare an incident report and property report.
- (d) Provide a property receipt to the individual who surrendered the firearms and ammunition.
- (e) Package and submit the firearms and ammunition in accordance with the Property and Evidence Policy.

337.7 RELEASE OF FIREARMS AND AMMUNITION

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with Penal Code § 18120 and the Property and Evidence Policy.

Gun Violence Restraining Orders

337.8 RENEWAL OF GUN VIOLENCE RESTRAINING ORDERS

The Investigative Bureau supervisor is responsible for the review of a gun violence restraining order obtained by the Bureau to determine if renewal should be requested within the time prescribed by law (Penal Code § 18190).

337.9 POLICY AVAILABILITY

The Chief Investigator or the authorized designee shall be responsible for making this policy available to the public upon request (Penal Code § 18108).

337.10 TRAINING

The Supervising Investigator should ensure that members receive periodic training on the requirements of this policy (Penal Code § 18108).

Native American Graves Protection and Repatriation

338.1 PURPOSE AND SCOPE

This policy is intended ensure the protection and security of ancient or historic grave sites, including notification of personnel responsible for cultural items, in compliance with the Native American Graves Protection and Repatriation Act (NAGPRA) (25 USC § 3001 et seq.).

338.1.1 DEFINITIONS

Definitions related to this policy include (43 CFR 10.2):

Funerary objects and associated funerary objects - Objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later with or near individual human remains, or that were made exclusively for burial purposes or to contain human remains.

Native American human remains - The physical remains of the body of a person of Native American ancestry.

Objects of cultural patrimony - Objects having ongoing historical, traditional or cultural importance that is central to the Native American group or culture itself and therefore cannot be appropriated or conveyed by any individual, including members of the Native American group or Native Hawaiian organization. Such objects must have been considered inalienable by the Native American group at the time the object was separated from the group.

Sacred objects - Specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions.

338.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation that the protection of Native American human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony is the responsibility of all members. Such protection includes minimizing destruction, contamination, inadvertent disruption or complicated custody transfer processes.

338.3 COMPLIANCE WITH THE NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT

Upon discovery or arrival upon a scene where it reasonably appears that a Native American grave, human remains, funerary objects, associated funerary objects, sacred objects or objects of cultural patrimony are exposed or otherwise unsecured, members shall secure the site in the same manner as a crime scene. All activity at the scene other than scene preservation activity must cease (43 CFR 10.4).

Native American Graves Protection and Repatriation

No photography or video recording may be permitted by the media or any group or individual who may wish to exhibit the remains.

Without delay, the appropriate agency or group shall be notified to respond and take control of the scene. These include the following (43 CFR 10.4):

- Federal land - Appropriate agency at the U.S. Department of the Interior or U.S. Department of Agriculture
- State land/Private land - Coroner, when appropriate (Health and Safety Code § 7050.5)
- Tribal land - Responsible Indian tribal official

338.4 EVIDENCE AND PROPERTY

If the location has been investigated as a possible homicide scene prior to identification as a NAGPRA site, investigators shall work with other appropriate agencies and individuals to ensure the proper transfer and repatriation of any material collected. Members shall ensure that any remains or artifacts located at the site are expediently processed (43 CFR 10.6).

Community Relations

339.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for community relationship-building.

Additional guidance on community relations and outreach is provided in other policies, including the:

- Hate Crimes Policy.
- Limited English Proficiency Services Policy.
- Communications with Persons with Disabilities Policy.
- Suspicious Activity Reporting Policy.

339.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to promote positive relationships between members of the bureau and the community by treating community members with dignity and respect and engaging them in public safety strategy development and relationship-building activities, and by making relevant policy and operations information available to the community in a transparent manner.

339.3 MEMBER RESPONSIBILITIES

Investigators should, as time and circumstances reasonably permit:

- (a) Make casual and consensual contacts with community members to promote positive community relationships (see the Detentions and Photographing Detainees Policy).
- (b) Become reasonably familiar with the schools, businesses and community groups within the county..
- (c) Work with community members to identify issues and solve problems related to community relations and public safety.

339.4 COMMUNITY AND YOUTH ACTIVITIES AND PROGRAMS

Members of the Bureau are encouraged to organize or assist with programs and activities that create opportunities for bureau members and community members, especially youth, to interact in a positive setting. Examples of such programs and events include:

- (a) Athletic programs (e.g., baseball, basketball, soccer, bowling).
- (b) Police-community get-togethers (e.g., cookouts, meals, charity events).
- (c) Youth leadership and life skills mentoring.
- (d) Neighborhood Watch and crime prevention programs.

Community Relations

339.5 SAFETY AND OTHER CONSIDERATIONS

Bureau members responsible for community relations activities should consider the safety of the community participants and, as much as reasonably practicable, not allow them to be present in any location or situation that would jeopardize their safety.

Bureau members in charge of community relations events should ensure that participating community members have completed waiver forms before participation, if appropriate. A parent or guardian must complete the waiver form if the participating community member has not reached 18 years of age.

339.6 TRAINING

Subject to available resources, members should receive training related to this policy, including training on topics such as:

- (a) Effective social interaction and communication skills.
- (b) Cultural, racial and ethnic diversity and relations.
- (c) Building community partnerships.
- (d) Community policing and problem-solving principles.
- (e) Enforcement actions and their effects on community relations.

Where practicable and appropriate, community members, especially those with relevant expertise, should be involved in the training to provide input from a community perspective.

Chapter 4 - Patrol Operations

Bias-Based Policing

400.1 PURPOSE AND SCOPE

This policy provides guidance to bureau members that affirms the Amador County District Attorney's Office Bureau of Investigation's commitment to policing that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the bureau relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

400.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based policing - An inappropriate reliance on actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or affiliation with any non-criminal group (protected characteristics) as the basis for providing differing law enforcement service or enforcement (Penal Code § 13519.4).

400.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this bureau to provide law enforcement services and to enforce the law equally, fairly, objectively and without discrimination toward any individual or group.

400.3 BIAS-BASED POLICING PROHIBITED

Bias-based policing is strictly prohibited.

However, nothing in this policy is intended to prohibit an investigator from considering protected characteristics in combination with credible, timely and distinct information connecting a person or people of a specific characteristic to a specific unlawful incident, or to specific unlawful incidents, specific criminal patterns or specific schemes.

400.3.1 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not collect information from a person based on religious belief, practice, affiliation, national origin or ethnicity unless permitted under state or federal law (Government Code § 8310.3).

Members shall not assist federal government authorities (Government Code § 8310.3):

- (a) In compiling personal information about a person's religious belief, practice, affiliation, national origin or ethnicity.
- (b) By investigating, enforcing or assisting with the investigation or enforcement of any requirement that a person register with the federal government based on religious belief, practice, or affiliation, or national origin or ethnicity.

Bias-Based Policing

400.4 MEMBER RESPONSIBILITIES

Every member of this bureau shall perform his/her duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based policing to a supervisor. Members should, when reasonable to do so, intervene to prevent any biased-based actions by another member.

400.4.1 REASON FOR CONTACT

Investigators contacting a person shall be prepared to articulate sufficient reason for the contact, independent of the protected characteristics of the individual.

To the extent that written documentation would otherwise be completed (e.g., arrest report, field interview (FI) card), the involved investigator should include those facts giving rise to the contact, as applicable.

Except for required data-collection forms or methods, nothing in this policy shall require any investigator to document a contact that would not otherwise require reporting.

400.4.2 REPORTING OF STOPS

Unless an exception applies under 11 CCR 999.227, an investigator conducting a stop of a person shall collect the data elements required by 11 CCR 999.226 for every person stopped and prepare a stop data report. When multiple investigators conduct a stop, the investigator with the highest level of engagement with the person shall collect the data elements and prepare the report (11 CCR 999.227).

If multiple agencies are involved in a stop and the Amador County District Attorney's Office Bureau of Investigation is the primary agency, the Amador County District Attorney's Office Bureau of Investigation investigator shall collect the data elements and prepare the stop data report (11 CCR 999.227).

The stop data report should be completed by the end of the investigator's shift or as soon as practicable (11 CCR 999.227).

400.5 SUPERVISOR RESPONSIBILITIES

Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the Personnel Complaints Policy.

- (a) Supervisors should discuss any issues with the involved investigator and his/her supervisor in a timely manner.
 1. Supervisors should document these discussions, in the prescribed manner.
- (b) Supervisors should periodically review audio/video recordings, terminal data and any other available resource used to document contact between investigators and the public to ensure compliance with the policy.
 - (a) Supervisors should document these periodic reviews.

Bias-Based Policing

- (b) Recordings or data that capture a potential instance of bias-based policing should be appropriately retained for administrative investigation purposes.
- (c) Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- (d) Supervisors should take prompt and reasonable steps to address any retaliatory action taken against any member of this bureau who discloses information concerning bias-based policing.

400.6 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Chief Investigator and/or Supervising Investigator shall ensure that all data required by the California Department of Justice (DOJ) regarding complaints of racial bias against investigators is collected and provided to the Legal Secretary Supervisor for required reporting to the DOJ (Penal Code § 13012; Penal Code § 13020). See the Records Section Policy.

Supervisors should ensure that data stop reports are provided to the Legal Secretary Supervisor for required annual reporting to the DOJ (Government Code § 12525.5) (See Records Bureau Policy).

400.7 ADMINISTRATION

Each year, the Chief Investigator should review the efforts of the Bureau to provide fair and objective policing and submit an annual report, including public concerns and complaints, to the District Attorney.

The annual report should not contain any identifying information about any specific complaint, member of the public or investigators. It should be reviewed by the Chief Investigator to identify any changes in training or operations that should be made to improve service.

Supervisors should review the annual report and discuss the results with those they are assigned to supervise.

400.8 TRAINING

Training on fair and objective policing and review of this policy should be conducted as directed by the Investigations Bureau.

- (a) All sworn members of this bureau will be scheduled to attend Peace Officer Standards and Training (POST)-approved training on the subject of bias-based policing.
- (b) Pending participation in such POST-approved training and at all times, all members of this bureau are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.
- (c) Each sworn member of this bureau who received initial bias-based policing training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends (Penal Code § 13519.4(i)).

Briefing Training

401.1 PURPOSE AND SCOPE

Briefing training is generally conducted at the beginning of the investigator's assigned shift. Briefing provides an opportunity for important exchange between employees and supervisors. A supervisor generally will conduct Briefing; however investigators may conduct Briefing for training purposes with supervisor approval.

Briefing should accomplish, at a minimum, the following basic tasks:

- (a) Briefing investigators with information regarding daily activity, with particular attention given to unusual situations and changes in the status of wanted persons, criminal intelligence, and major investigations, case status and progress
- (b) Notifying investigators of changes in schedules and assignments
- (c) Notifying investigators of new General Orders or changes in General Orders
- (d) Reviewing recent incidents for training purposes
- (e) Providing training on a variety of subjects

401.2 PREPARATION OF MATERIALS

The supervisor conducting Briefing is responsible for preparation of the materials necessary for a constructive briefing. Supervisors may delegate this responsibility to a subordinate investigator in his or her absence or for training purposes.

401.3 RETENTION OF BRIEFING TRAINING RECORDS

Briefing training materials and a curriculum or summary shall be forwarded to the Supervising Investigator for inclusion in training records, as appropriate.

Crime and Disaster Scene Integrity

402.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance in handling a major crime or disaster.

402.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to secure crime or disaster scenes so that evidence is preserved, and to identify and mitigate the dangers associated with a major crime or disaster scene for the safety of the community and those required to enter or work near the scene.

402.3 SCENE RESPONSIBILITY

The first investigator at the scene of a crime or major incident is generally responsible for the immediate safety of the public and preservation of the scene. Investigators shall also consider officer safety and the safety of those persons entering or exiting the area, including those rendering medical aid to any injured parties. Once an investigator has assumed or been assigned to maintain the integrity and security of the crime or disaster scene, the investigator shall maintain the crime or disaster scene until he/she is properly relieved by a supervisor or other designated person.

402.4 FIRST RESPONDER CONSIDERATIONS

The following list generally describes the first responder's function at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation:

- (a) Broadcast emergency information, including requests for additional assistance and resources.
- (b) Provide for the general safety of those within the immediate area by mitigating, reducing or eliminating threats or dangers.
- (c) Locate or identify suspects and determine whether dangerous suspects are still within the area.
- (d) Provide first aid to injured parties if it can be done safely.
- (e) Evacuate the location safely as required or appropriate.
- (f) Secure the inner perimeter.
- (g) Protect items of apparent evidentiary value.
- (h) Secure an outer perimeter.
- (i) Identify potential witnesses.
- (j) Start a chronological log noting critical times and personnel allowed access.

Crime and Disaster Scene Integrity

402.5 SEARCHES

Investigators arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims, and to determine if suspects are present and continue to pose a threat. Once investigators are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Investigators should thereafter secure the scene and conduct no further search until additional or alternate authority for the search is obtained, such as consent or a search warrant.

402.5.1 CONSENT

When possible, investigators should seek written consent to search from authorized individuals. However, in the case of serious crimes or major investigations, it may be prudent to also obtain a search warrant. Consent as an additional authorization may be sought, even in cases where a search warrant has been granted.

402.6 EXECUTION OF HEALTH ORDERS

Any sworn member of this bureau is authorized to enforce all orders of the local health officer that have been issued for the purpose of preventing the spread of any contagious, infectious or communicable disease (Health and Safety Code § 120155).

Crisis Response Unit

403.1 PURPOSE AND SCOPE

A Crisis Response Unit (CRU) is comprised of two specialized teams: the Crisis Negotiation Team (CNT) and the Special Weapons and Tactics Team (SWAT). A unit such as this has been established to provide specialized support in handling critical field operations where intense negotiations and/or special tactical deployment methods beyond the capacity of field officers appear to be necessary.

The Amador County District Attorney's Office Bureau of Investigation does not have a CRU. When situations require that level of response, the Amador County District Attorney's Office Bureau of Investigation will contact the Amador County Sheriff's Office or the appropriate law enforcement agency.

403.1.1 OPERATIONAL POLICY

Since situations that necessitate the need for such a police response vary greatly from incident to incident and such events often demand on-the-scene evaluation, the Operational Policy outlined in this manual section serves as a guideline to bureau personnel allowing for appropriate on-scene decision making as required.

403.1.2 SWAT TEAM DEFINED

A SWAT team is a designated unit of law enforcement officers that is specifically trained and equipped to work as a coordinated team to resolve critical incidents that are so hazardous, complex, or unusual that they may exceed the capabilities of first responders or investigative units including, but not limited to, hostage taking, barricaded suspects, snipers, terrorist acts and other high-risk incidents. As a matter of Bureau policy, such a unit may also be used to serve high-risk warrants, both search and arrest, where public and officer safety issues warrant the use of such a unit.

403.2 CRISIS NEGOTIATION TEAM

A Crisis Negotiation Team is established to provide skilled verbal communicators who may be utilized to attempt to de-escalate and effect surrender in critical situations where suspects have taken hostages, barricaded themselves, or have suicidal tendencies.

403.3 OPERATION GUIDELINES FOR CRISIS RESPONSE UNIT

The following procedures serve as guidelines for the operational deployment of a Crisis Response Unit. Generally, the Special Weapons and Tactics Team and the Crisis Negotiation Team will be activated together. It is recognized, however, that a tactical team may be used in a situation not requiring the physical presence of the Crisis Negotiation Team such as warrant service operations. This shall be at the discretion of the CRU Commander.

Crisis Response Unit

403.3.1 ON-SCENE DETERMINATION

The supervisor in charge on the scene of a particular event will assess whether the Crisis Response Unit is to respond to the scene. Upon final determination by the Supervising Investigator, he/she will notify the appropriate outside agency.

403.3.2 APPROPRIATE SITUATIONS FOR USE OF CRISIS RESPONSE UNIT

The following are examples of incidents which may result in the activation of the Crisis Response Unit:

- (a) Barricaded suspects who refuse an order to surrender.
- (b) Incidents where hostages are taken.
- (c) Cases of suicide threats.
- (d) Arrests of dangerous persons.
- (e) Any situation that could enhance the ability to preserve life, maintain social order, and ensure the protection of property.

403.3.3 OUTSIDE AGENCY REQUESTS

Requests by field personnel for assistance from outside agency crisis units must be approved by the Supervising Investigator.

403.3.4 MOBILIZATION OF CRISIS RESPONSE UNIT

The On-Scene supervisor shall make a request to the Supervising Investigator for the Crisis Response Unit. The Supervising Investigator will then notify the Investigations Bureau Chief as soon as practical.

The Supervising Investigator should advise the CRU Commander with as much of the following information which is available at the time:

- (a) The number of suspects, known weapons and resources.
- (b) If the suspect is in control of hostages.
- (c) If the suspect is barricaded.
- (d) The type of crime involved.
- (e) If the suspect has threatened or attempted suicide.
- (f) The location of the command post and a safe approach to it.
- (g) The extent of any perimeter and the number of investigators involved.
- (h) Any other important facts critical to the immediate situation and whether the suspect has refused an order to surrender.

Crisis Response Unit

403.3.5 FIELD UNIT RESPONSIBILITIES

While waiting for the Crisis Response Unit, field personnel should, if safe, practical and sufficient resources exist:

- (a) Establish an inner and outer perimeter.
- (b) Establish a command post outside of the inner perimeter.
- (c) Establish an arrest/response team. The team actions may include:
 - 1. Securing any subject or suspect who may surrender.
 - 2. Taking action to mitigate a deadly threat or behavior.
- (d) Evacuate any injured persons or citizens in the zone of danger.
- (e) Attempt to establish preliminary communication with the suspect. Once the CRU has arrived, all negotiations should generally be halted to allow the negotiators and SWAT time to set up.
- (f) Be prepared to brief the CRU Commander on the situation.
- (g) Plan for, and stage, anticipated resources.

403.3.6 ON-SCENE COMMAND RESPONSIBILITIES

Upon arrival of the Crisis Response Unit at the scene, the Incident Commander shall brief the CRU Commander and team supervisors about the situation. Upon review, it will be the Incident Commander's decision, with input from the CRU Commander, whether to deploy the Crisis Response Unit. Once the Incident Commander authorizes deployment, the CRU Commander will be responsible for the tactical portion of the operation. The Incident Commander shall continue supervision of the command post operation, outer perimeter security, and support for the Crisis Response Unit. The Incident Commander and the CRU Commander (or his or her designee) shall maintain communications at all times.

403.3.7 COMMUNICATION WITH CRISIS RESPONSE UNIT PERSONNEL

All of those persons who are non-Crisis Response Unit personnel should refrain from any non-emergency contact or interference with any member of the unit during active negotiations. Operations require the utmost in concentration by involved personnel and, as a result, no one should interrupt or communicate with Crisis Team personnel directly. All non-emergency communications shall be channeled through the Negotiation Team Sergeant or his or her designee.

Hazardous Material Response

404.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees resulting from their exposure. To comply with 8 CCR § 5194, the following is to be the policy of this bureau.

404.1.1 HAZARDOUS MATERIAL DEFINED

A hazardous material is a substance which by its nature, containment and reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

404.2 HAZARDOUS MATERIAL RESPONSE

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

- (a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from the person transporting).
- (b) Notify the Fire Department.
- (c) Provide first-aid for injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
- (e) Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).
- (f) Notify the Department of Toxic Substances Control. This is mandatory when an investigator comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety Code § 25354.5).

404.3 REPORTING EXPOSURE(S)

Bureau personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an employee memorandum that shall be forwarded via chain of command to the Chief Investigator. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.

Hazardous Material Response

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness in addition to a crime report or incident report.

404.3.1 SUPERVISOR RESPONSIBILITY

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of employees, safety equipment is available through supervisory personnel. Safety items not maintained by the Bureau will be obtained through the Fire Department.

Hostage and Barricade Incidents

405.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where investigators have legal cause to contact, detain or arrest a person, and the person refuses to submit to the lawful requests of the investigators by remaining in a structure or vehicle and/or by taking a hostage.

The scope of this policy is not intended to address all variables that investigators encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or purport to recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

405.1.1 DEFINITIONS

Definitions related to this policy include:

Barricade situation - An incident where a person maintains a position of cover or concealment and ignores or resists law enforcement personnel, and it is reasonable to believe the subject is armed with a dangerous or deadly weapon.

Hostage situation - An incident where it is reasonable to believe a person is:

- (a) Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.
- (b) Unlawfully held against his/her will under threat or actual use of force.

405.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to address hostage and barricade situations with due regard for the preservation of life and balancing the risk of injury, while obtaining the safe release of hostages, apprehending offenders and securing available evidence.

405.3 COMMUNICATION

When circumstances permit, initial responding investigators should try to establish and maintain lines of communication with a barricaded person or hostage-taker. Investigators should attempt to identify any additional subjects, inquire about victims and injuries, seek the release of hostages, gather intelligence information, identify time-sensitive demands or conditions and obtain the suspect's surrender.

When available, law enforcement negotiators should be requested to respond to the scene as soon as practicable and assume communication responsibilities. Negotiators are permitted to exercise flexibility in each situation based upon their training, the circumstances presented, suspect actions or demands and the available resources.

Hostage and Barricade Incidents

405.4 FIRST RESPONDER CONSIDERATIONS

First responding investigators should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

The first responding investigator should immediately request a supervisor's response, and the supervisor of the law enforcement agency having jurisdiction, as soon as it is determined that a hostage or barricade situation exists. The first responding investigator shall assume the duties of the supervisor until relieved by a supervisor or a more qualified responder. The investigator shall continually evaluate the situation, including the level of risk to investigators, to the persons involved and to bystanders, and the resources currently available.

The handling investigator should brief the arriving supervisor of the incident, including information about suspects and victims, the extent of any injuries, additional resources or equipment that may be needed, and current perimeters and evacuation areas.

405.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, investigators handling a barricade situation should attempt to avoid a forceful confrontation in favor of stabilizing the incident by establishing and maintaining lines of communication while awaiting the arrival of specialized personnel and trained negotiators. During the interim the following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (d) Provide responding emergency personnel with a safe arrival route to the location.
- (e) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (f) Attempt or obtain a line of communication and gather as much information on the subject as possible, including weapons, other involved parties, additional hazards or injuries.
- (g) Establish an inner and outer perimeter as circumstances require and resources permit to prevent unauthorized access.
- (h) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (i) Determine the need for and notify the appropriate persons within and outside the Bureau, such as the Chief Investigator and the District Attorney .

Hostage and Barricade Incidents

- (j) If necessary and available, establish a tactical or exclusive radio frequency for the incident.
- (k) Establish a command post.

405.4.2 HOSTAGE SITUATION

Investigators presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of specialized personnel and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that investigators react quickly to developing or changing threats. The following options, while not all-inclusive or in any particular order, should be considered:

- (a) Ensure injured persons are evacuated from the immediate threat area if it is reasonably safe to do so. Request medical assistance.
- (b) Assign personnel to a contact team to control the subject should he/she attempt to exit the building, structure or vehicle, and attack, use deadly force, attempt to escape or surrender prior to additional resources arriving.
- (c) Establish a rapid response team in the event it becomes necessary to rapidly enter a building, structure or vehicle, such as when the suspect is using deadly force against any hostages (see the Rapid Response and Deployment Policy).
- (d) Assist hostages or potential hostages to escape if it is reasonably safe to do so. Hostages should be kept separated if practicable pending further interview.
- (e) Request additional personnel, resources and equipment as needed (e.g., canine team, air support).
- (f) Provide responding emergency personnel with a safe arrival route to the location.
- (g) Evacuate uninjured persons in the immediate threat area if it is reasonably safe to do so.
- (h) Coordinate pursuit or surveillance vehicles and control of travel routes.
- (i) Attempt to obtain a line of communication and gather as much information about the suspect as possible, including any weapons, victims and their injuries, additional hazards, other involved parties and any other relevant intelligence information.
- (j) Establish an inner and outer perimeter as resources and circumstances permit to prevent unauthorized access.
- (k) Evacuate bystanders, residents and businesses within the inner and then outer perimeter as appropriate. Check for injuries, the presence of other involved subjects, witnesses, evidence or additional information.
- (l) Determine the need for and notify the appropriate persons within and outside the Bureau, such as the Chief Investigator and the District Attorney.
- (m) If necessary and available, establish a tactical or exclusive radio frequency for the incident.

Hostage and Barricade Incidents

405.5 SUPERVISOR RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, assess the risk level of the situation, establish a proper chain of command and assume the role of Incident Commander until properly relieved. This includes requesting a Special Weapons and Tactics Team (SWAT) response if appropriate and apprising the SWAT Commander of the circumstances. In addition, the following options should be considered:

- (a) Ensure injured persons are evacuated and treated by medical personnel.
- (b) Ensure the completion of necessary first responder responsibilities or assignments.
- (c) Request crisis negotiators, specialized units, additional personnel, resources or equipment as appropriate.
- (d) Establish a command post location as resources and circumstances permit.
- (e) Designate assistants who can help with intelligence information and documentation of the incident.
- (f) If it is practicable to do so, arrange for video documentation of the operation.
- (g) Consider contacting utility and communication providers to restrict such services (e.g., restricting electric power, gas, telephone service).
 - (a) When considering restricting communication services, a supervisor should make the determination that there is reason to believe an emergency situation exists involving immediate danger of death or great bodily harm and that an interruption to communication services is necessary to protect public safety (Penal Code § 11471). The supervisor must ensure the Bureau obtains a court order, in accordance with Penal Code § 11472, prior to requesting the interruption. In the case of an extreme emergency when there is insufficient time to obtain an order prior to the request, application for the order must be submitted within six hours after initiating the interruption. If six hours is not possible, then the application for the court order shall be made at the first reasonably available opportunity, but no later than 24 hours in accordance with Penal Code § 11475.
- (h) Debrief personnel and review documentation as appropriate.

405.6 REPORTING

Unless otherwise relieved by a supervisor, the handling investigator at the scene is responsible for completion and/or coordination of incident reports.

Response to Bomb Calls

406.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the Amador County District Attorney's Office Bureau of Investigation if requested to respond to incidents involving explosives, explosive devices, explosion/bombing incidents or threats of such incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety should always be the primary consideration.

406.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

406.3 RECEIPT OF BOMB THREAT

Bureau members receiving a bomb threat should obtain as much information from the individual as reasonably possible, including the type, placement and alleged detonation time of the device.

If the bomb threat is received on a recorded line, reasonable steps should be taken to ensure that the recording is preserved in accordance with established bureau evidence procedures.

The member receiving the bomb threat should ensure that the Sheriff's Office Dispatch is immediately advised and informed of the details. This will enable the Sheriff's Office Dispatch to ensure that the appropriate personnel are dispatched, and, as appropriate, the threatened location is given an advance warning.

406.4 GOVERNMENT FACILITY OR PROPERTY

A bomb threat targeting a government facility may require a different response based on the government agency.

406.4.1 AMADOR COUNTY DISTRICT ATTORNEY'S OFFICE FACILITY

If the bomb threat is against the Amador County District Attorney's Office facility, the Chief Investigator or Supervising Investigator will direct and assign investigators as required for coordinating a general building search or evacuation of the District Attorney's Office building, as he/she deems appropriate.

406.4.2 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of the Amador County District Attorney's Office Bureau of Investigation that is not the property of this bureau, the appropriate agency will be promptly informed of the threat. Assistance to the other entity may be provided as the Chief Investigator or Supervising Investigator deems appropriate.

Response to Bomb Calls

406.5 PRIVATE FACILITY OR PROPERTY

When a member of this bureau receives notification of a bomb threat at a location in the County of Amador County, the member receiving the notification should obtain as much information as reasonably possible from the notifying individual, including:

- (a) The location of the facility.
- (b) The nature of the threat.
- (c) Whether the type and detonation time of the device is known.
- (d) Whether the facility is occupied and, if so, the number of occupants currently on-scene.
- (e) Whether the individual is requesting district attorney's office assistance at the facility.
- (f) Whether there are any internal facility procedures regarding bomb threats in place, such as:
 - (a) No evacuation of personnel and no search for a device.
 - (b) Search for a device without evacuation of personnel.
 - (c) Evacuation of personnel without a search for a device.
 - (d) Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that the Amador Sheriff's Office Dispatch is immediately notified so that he/she can communicate with the person in charge of the threatened facility.

406.5.1 ASSISTANCE

The Chief Investigator or Supervising Investigator should be notified when district attorney's office assistance is requested. The Supervising Investigator will make the decision whether the Bureau will render assistance and at what level. Information and circumstances that indicate a reasonably apparent, imminent threat to the safety of either the facility or the public may require a more active approach, including law enforcement control over the facility.

Should the Chief Investigator or Supervising Investigator determine that the Bureau will assist or control such an incident, he/she will determine:

- (a) The appropriate level of assistance.
- (b) The plan for assistance.
- (c) Whether to evacuate and/or search the facility.
- (d) Whether to involve facility staff in the search or evacuation of the building.
 - 1. The person in charge of the facility should be made aware of the possibility of damage to the facility as a result of a search.
 - 2. The safety of all participants is the paramount concern.
- (e) The need for additional resources, including:

Response to Bomb Calls

1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request district attorney's office assistance to clear the interior of a building, based upon the circumstances and known threat, investigators may be sent to the scene to evacuate other areas that could be affected by the type of threat, or for traffic and pedestrian control.

406.6 FOUND DEVICE

When handling an incident involving a suspected explosive device, the following guidelines, while not all inclusive, should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
- (b) The device should not be touched or moved except by the bomb squad or military explosive ordnance disposal team.
- (c) Personnel should not transmit on any equipment that is capable of producing radio frequency energy within the evacuation area around the suspected device. This includes the following:
 1. Two-way radios
 2. Cell phones
 3. Other personal communication devices
- (d) The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
- (e) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
- (f) A safe access route should be provided for support personnel and equipment.
- (g) Search the area for secondary devices as appropriate and based upon available resources.
- (h) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
- (i) Promptly relay available information to the Supervising Investigator including:
 1. The time of discovery.
 2. The exact location of the device.
 3. A full description of the device (e.g., size, shape, markings, construction).
 4. The anticipated danger zone and perimeter.
 5. The areas to be evacuated or cleared.

Response to Bomb Calls

406.7 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding investigators. As in other catastrophic events, a rapid response may help to minimize injury to victims, minimize contamination of the scene by gathering crowds, or minimize any additional damage from fires or unstable structures.

406.7.1 CONSIDERATIONS

Investigators responding to explosions, whether accidental or a criminal act, should consider the following actions:

- (a) Assess the scope of the incident, including the number of victims and extent of injuries.
- (b) Request additional personnel and resources, as appropriate.
- (c) Assist with first aid.
- (d) Identify and take appropriate precautions to mitigate scene hazards, such as collapsed structures, bloodborne pathogens and hazardous materials.
- (e) Assist with the safe evacuation of victims, if possible.
- (f) Establish an inner perimeter to include entry points and evacuation routes. Search for additional or secondary devices.
- (g) Preserve evidence.
- (h) Establish an outer perimeter and evacuate if necessary.
- (i) Identify witnesses.

406.7.2 NOTIFICATIONS

When an explosion has occurred, the following people should be notified as appropriate:

- Law Enforcement agency having jurisdiction
- Fire department
- Bomb squad
- Additional bureau personnel
- Chief Investigator and Supervising Investigator
- Other law enforcement agencies, including local, state or federal agencies, such as the FBI and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)
- Other government agencies, as appropriate

406.7.3 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

Response to Bomb Calls

406.7.4 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene. The Supervising Investigator should assign investigators to protect the crime scene area, which could extend over a long distance. Consideration should be given to the fact that evidence may be imbedded in nearby structures or hanging in trees and bushes.

Crisis Intervention Incidents

407.1 PURPOSE AND SCOPE

This policy provides guidelines for interacting with those who may be experiencing a mental health or emotional crisis. Interaction with such individuals has the potential for miscommunication and violence. It often requires an investigator to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

407.1.1 DEFINITIONS

Definitions related to this policy include:

Person in crisis - A person whose level of distress or mental health symptoms have exceeded the person's internal ability to manage his/her behavior or emotions. A crisis can be precipitated by any number of things, including an increase in the symptoms of mental illness despite treatment compliance; non-compliance with treatment, including a failure to take prescribed medications appropriately; or any other circumstance or event that causes the person to engage in erratic, disruptive or dangerous behavior that may be accompanied by impaired judgment.

407.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation is committed to providing a consistently high level of service to all members of the community and recognizes that persons in crisis may benefit from intervention. The Bureau will collaborate, where feasible, with mental health professionals to develop an overall intervention strategy to guide its members' interactions with those experiencing a mental health crisis. This is to ensure equitable and safe treatment of all involved.

407.3 SIGNS

Members should be alert to any of the following possible signs of mental health issues or crises:

- (a) A known history of mental illness
- (b) Threats of or attempted suicide
- (c) Loss of memory
- (d) Incoherence, disorientation or slow response
- (e) Delusions, hallucinations, perceptions unrelated to reality or grandiose ideas
- (f) Depression, pronounced feelings of hopelessness or uselessness, extreme sadness or guilt
- (g) Social withdrawal
- (h) Manic or impulsive behavior, extreme agitation, lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility or paranoia

Crisis Intervention Incidents

Members should be aware that this list is not exhaustive. The presence or absence of any of these should not be treated as proof of the presence or absence of a mental health issue or crisis.

407.4 FIRST RESPONDERS

Safety is a priority for first responders. It is important to recognize that individuals under the influence of alcohol, drugs or both may exhibit symptoms that are similar to those of a person in a mental health crisis. These individuals may still present a serious threat to investigators; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an investigator's authority to use reasonable force when interacting with a person in crisis.

Investigators are reminded that mental health issues, mental health crises and unusual behavior alone are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An investigator responding to a call involving a person in crisis should:

- (a) Promptly assess the situation independent of reported information and make a preliminary determination regarding whether a mental health crisis may be a factor.
- (b) Request available backup investigators and specialized resources as deemed necessary and, if it is reasonably believed that the person is in a crisis situation, use conflict resolution and de-escalation techniques to stabilize the incident as appropriate.
- (c) If feasible, and without compromising safety, turn off flashing lights, bright lights or sirens.
- (d) Attempt to determine if weapons are present or available.
 1. Prior to making contact, and whenever possible and reasonable, conduct a search of the Department of Justice Automated Firearms System via the California Law Enforcement Telecommunications System (CLETS) to determine whether the person is the registered owner of a firearm (Penal Code § 11106.4).
- (e) Take into account the person's mental and emotional state and potential inability to understand commands or to appreciate the consequences of his/her action or inaction, as perceived by the investigator.
- (f) Secure the scene and clear the immediate area as necessary.
- (g) Employ tactics to preserve the safety of all participants.
- (h) Determine the nature of any crime.
- (i) Request a supervisor, as warranted.
- (j) Evaluate any available information that might assist in determining cause or motivation for the person's actions or stated intentions.
- (k) If circumstances reasonably permit, consider and employ alternatives to force.

Crisis Intervention Incidents

407.5 DE-ESCALATION

Investigators should consider that taking no action or passively monitoring the situation may be the most reasonable response to a mental health crisis.

Once it is determined that a situation is a mental health crisis and immediate safety concerns have been addressed, responding members should be aware of the following considerations and should generally:

- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm, courteous and avoid overreacting.
- Speak and move slowly and in a non-threatening manner.
- Moderate the level of direct eye contact.
- Remove distractions or disruptive people from the area.
- Demonstrate active listening skills (e.g., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Responding investigators generally should not:

- Use stances or tactics that can be interpreted as aggressive.
- Allow others to interrupt or engage the person.
- Corner a person who is not believed to be armed, violent or suicidal.
- Argue, speak with a raised voice or use threats to obtain compliance.

407.6 INCIDENT ORIENTATION

When requested or required to respond to an incident that may involve mental illness or a mental health crisis, the investigator should request that the dispatcher provide critical information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication, or may have failed to take his/her medication.
- (b) Whether there have been prior incidents, suicide threats/attempts, and whether there has been previous district attorney's office response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

407.7 SUPERVISOR RESPONSIBILITIES

If a supervisor should respond to the scene of any interaction with a person in crisis. Responding supervisors should:

Crisis Intervention Incidents

- (a) Attempt to secure appropriate and sufficient resources.
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Consider strategic disengagement. Absent an imminent threat to the public and, as circumstances dictate, this may include removing or reducing law enforcement resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.
- (e) Conduct an after-action tactical and operational debriefing, and prepare an after-action evaluation of the incident to be forwarded to the Bureau Chief.

Evaluate whether a critical incident stress management debriefing for involved members is warranted.

407.8 INCIDENT REPORTING

Members engaging in any oral or written communication associated with a mental health crisis should be mindful of the sensitive nature of such communications and should exercise appropriate discretion when referring to or describing persons and circumstances.

Members having contact with a person in crisis should keep related information confidential, except to the extent that revealing information is necessary to conform to bureau reporting procedures or other official mental health or medical proceedings.

407.8.1 DIVERSION

Individuals who are not being arrested should be processed in accordance with the Mental Illness Commitments Policy.

407.9 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS

Non-sworn members may be required to interact with persons in crisis in an administrative capacity, such as dispatching, records request, and animal control issues.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If a member believes that he/she is interacting with a person in crisis, he/she should proceed patiently and in a calm manner.
- (c) Members should be aware and understand that the person may make unusual or bizarre claims or requests.

If a person's behavior makes the member feel unsafe, if the person is or becomes disruptive or violent, or if the person acts in such a manner as to cause the member to believe that the person may be harmful to him/herself or others, an investigator should be promptly summoned to provide assistance.

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407.10 TRAINING

In coordination with the mental health community and appropriate stakeholders, the Bureau will develop and provide comprehensive education and training to all department members to enable them to effectively interact with persons in crisis.

This bureau will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, welfare checks and crisis intervention (Penal Code § 11106.4; Penal Code § 13515.25; Penal Code § 13515.27; Penal Code § 13515.30).

Mental Illness Commitments

408.1 PURPOSE AND SCOPE

This policy provides guidelines for when investigators may take a person into custody for psychiatric evaluation and treatment (5150 commitment) (Welfare and Institutions Code § 5150).

408.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to protect the public and individuals through legal and appropriate use of the 72-hour treatment and evaluation commitment (5150 commitment) process.

408.3 AUTHORITY

An investigator having probable cause may take a person into custody and place the person in an approved mental health facility for 72-hour treatment and evaluation when the investigator believes that, as a result of a mental disorder, the person is a danger to him/herself or others or the person is gravely disabled (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5585.50).

When determining whether to take a person into custody, investigators are not limited to determining the person is an imminent danger and shall consider reasonably available information about the historical course of the person's mental disorder, which may include evidence presented from any of the following (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05):

- (a) An individual who is providing or has provided mental health treatment or related support services to the person
- (b) A family member
- (c) The person subject to the determination or anyone designated by the person

408.3.1 VOLUNTARY EVALUATION

If an investigator encounters an individual who may qualify for a 5150 commitment, he/she may inquire as to whether the person desires to voluntarily be evaluated at an appropriate facility. If the person so desires, the investigators should:

- (a) Transport the person to an appropriate facility that is able to conduct the evaluation and admit the person pursuant to a 5150 commitment.
- (b) If at any point the person changes his/her mind regarding voluntary evaluation, investigators should proceed with the 5150 commitment, if appropriate.
- (c) Document the circumstances surrounding the individual's desire to pursue voluntary evaluation and/or admission.

Mental Illness Commitments

408.4 CONSIDERATIONS AND RESPONSIBILITIES

Any investigator handling a situation involving an individual who may qualify for a 5150 commitment should consider, as time and circumstances reasonably permit:

- (a) Available information that might assist in determining the cause and nature of the person's action or stated intentions.
- (b) Community or neighborhood mediation services.
- (c) Conflict resolution and de-escalation techniques.
- (d) Community or other resources available to assist in dealing with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade investigators from taking reasonable action to ensure the safety of the investigators and others.

Investigators should consider a 5150 commitment over arrest when mental health issues appear to be a mitigating factor for people who are suspected of committing minor crimes or creating other public safety issues.

408.4.1 SECURING OF PROPERTY

When a person is taken into custody for evaluation, or within a reasonable time thereafter, and unless a responsible relative, guardian or conservator is in possession of the person's personal property, the investigator shall take reasonable precautions to safeguard the individual's personal property in his/her possession or on the premises occupied by the person (Welfare and Institutions Code § 5150).

The investigator taking the person into custody shall provide a report to the court that describes the person's property and its disposition in the format provided in Welfare and Institutions Code § 5211, unless a responsible person took possession of the property, in which case the investigator shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

408.5 TRANSPORTATION

When transporting any individual for a 5150 commitment, the transporting investigator should have Dispatch notify the receiving facility of the estimated time of arrival, the level of cooperation of the individual and whether any special medical care is needed.

Investigators may transport individuals in a Bureau vehicle and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the detainee require transport in a medical transport vehicle and the safety of any person, including the detainee, requires the presence of an investigator during the transport, Supervising Investigator approval should be obtained before transport commences.

408.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the investigator will escort the individual into a treatment area designated by a facility staff member. If the individual is not seeking treatment voluntarily, the

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investigator should provide the staff member with the written application for a 5150 commitment and remain present to provide clarification of the grounds for detention, upon request.

Absent exigent circumstances, the transporting investigator should not assist facility staff with the admission process, including restraint of the individual. However, if the individual is transported and delivered while restrained, the investigator may assist with transferring the individual to facility restraints and will be available to assist during the admission process, if requested. Under normal circumstances, investigators will not apply facility-ordered restraints.

408.7 DOCUMENTATION

The investigator shall complete an application for a 72-Hour detention for evaluation and treatment, provide it to the facility staff member assigned to that patient and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for investigator involvement; the probable cause to believe the person is, as a result of a mental health disorder, a danger to others or him/herself or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.05).

The investigator should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

408.7.1 ADVISEMENT

The investigator taking a person into custody for evaluation shall advise the person of:

- (a) The investigator's name and agency.
- (b) The fact that the person is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise him/her of their rights.
- (c) The name of the facility to which the person is being taken.
- (d) If the person is being taken into custody at his/her residence, he/she should also be advised that he/she may take a few personal items, which the investigator must approve, and may make a telephone call or leave a note indicating where he/she is being taken. The investigator should also ask if the person needs assistance turning off any appliance or water.

The advisement shall be given in a language the person understands. If the person cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

408.8 CRIMINAL OFFENSES

Investigators investigating an individual who is suspected of committing a minor criminal offense and who is being taken on a 5150 commitment should resolve the criminal matter by issuing a warning or a Notice to Appear as appropriate.

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When an individual who may qualify for a 5150 commitment has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility, the investigator should:

- (a) Arrest the individual when there is probable cause to do so.
- (b) Notify the appropriate supervisor of the facts supporting the arrest and the facts that would support the 5150 commitment.
- (c) Facilitate the individual's transfer to jail.
- (d) Thoroughly document in the related reports the circumstances that indicate the individual may qualify for a 5150 commitment.

In the supervisor's judgment, the individual may instead be arrested or booked and transported to the appropriate mental health facility. The supervisor should consider the seriousness of the offense, the treatment options available, the ability of this bureau to regain custody of the individual, bureau resources (e.g., posting a guard) and other relevant factors in making this decision.

408.9 FIREARMS AND OTHER WEAPONS

Whenever a person is taken into custody for a 5150 commitment, the handling investigators should seek to determine if the person owns or has access to any firearm or other deadly weapon defined in Welfare and Institutions Code § 8100. Investigators should consider whether it is appropriate and consistent with current search and seizure law under the circumstances to seize any such firearms or other dangerous weapons (e.g., safekeeping, evidence, consent).

Investigators are cautioned that a search warrant may be needed before entering a residence or other place to search, unless lawful, warrantless entry has already been made (e.g., exigent circumstances, consent). A search warrant may also be needed before searching for or seizing weapons

The handling investigators shall issue a receipt describing the deadly weapon or any firearm seized, and list any serial number or other identification that is on the firearm. Investigators shall advise the person of the procedure for the return of any firearm or other weapon that has been taken into custody (Welfare and Institutions Code § 8102 (b)) (see Property and Evidence Policy).

408.9.1 PETITION FOR RETURN OF FIREARMS AND OTHER WEAPONS

Whenever the handling investigator has cause to believe that the future return of any confiscated weapon might endanger the person or others, the investigator shall detail those facts and circumstances in a report. The report shall be forwarded to the Investigative Bureau, which shall be responsible for initiating a petition to the Superior Court for a hearing in accordance with Welfare and Institutions Code § 8102(c), to determine whether the weapon will be returned.

The petition to the Superior Court shall be initiated within 30 days of the release of the individual from whom such weapon has been confiscated, unless the Bureau makes an ex parte application to the court to extend the time to file such a petition, up to a maximum of 60 days. At the time any such petition is initiated, the Bureau shall send written notice to the individual informing him/her of

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the right to a hearing on the issue, that he/she has 30 days to confirm with the court clerk any desire for a hearing and that the failure to do so will result in the forfeiture of any confiscated weapon.

408.10 TRAINING

This bureau will endeavor to provide Peace Officer Standards and Training (POST)-approved advanced officer training on interaction with persons with mental disabilities, 5150 commitments and crisis intervention.

Cite and Release Policy

409.1 PURPOSE AND SCOPE

This policy provides guidance on when to release adults who are arrested for a criminal misdemeanor offense on a written notice to appear (citation) and when to hold for court or bail.

409.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the Bureau's mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

409.3 RELEASE BY CITATION

Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private person's arrest, shall be released from custody on a citation (Penal Code § 853.6).

The citing investigator shall, at the time the defendant signs the notice to appear, call attention to the time and place for appearance and take any other steps they deem necessary to ensure that the defendant understands their written promise to appear.

409.3.1 FIELD CITATIONS

In most cases an adult arrested for a misdemeanor offense may be released in the field on a citation in lieu of physical arrest when booking and fingerprinting is not practicable or immediately required provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6; Penal Code § 1270.1). In such cases the arresting investigator should check the booking required box on the citation form to indicate that the person will be photographed and fingerprinted at a later time when ordered by the court.

When a booking photo or fingerprints are needed for the furtherance of any investigation, the person should be released on citation after booking instead of on a field citation.

409.3.2 RELEASE AFTER BOOKING

In some cases it may not be feasible or desirable to release a person in the field. The person should instead be released on citation after booking at the jail. All bookings shall be approved by the Supervising Investigator or the authorized designee.

409.4 NON-RELEASE

Cite and Release Policy

409.4.1 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

- (a) Misdemeanor domestic battery (Penal Code § 243(e)(1))
- (b) Felony domestic battery (Penal Code § 273.5)
- (c) Serious or violent felonies (Penal Code § 1270.1(a)(1))
- (d) Felony intimidation of witnesses and victims (Penal Code § 136.1)
- (e) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)
- (f) Stalking (Penal Code § 646.9)
- (g) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

409.4.2 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The Supervising Investigator may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Bureau and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

- (a) The person arrested is so intoxicated that they could be a danger to themselves or to others. Release may occur as soon as this condition no longer exists.
- (b) The person arrested requires medical examination or medical care or is otherwise unable to care for their own safety
 1. The Amador County District Attorney's Office Bureau of Investigation shall not release an arrestee from custody for the purpose of allowing that person to seek medical care at a hospital, and then immediately re-arrest the same individual upon discharge from the hospital, unless the hospital determines this action will enable it to bill and collect from a third-party payment source (Penal Code § 4011.10).
- (c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.
- (d) There are one or more outstanding arrest warrants for the person (see Misdemeanor Warrants elsewhere in this policy).
- (e) The person could not provide satisfactory evidence of personal identification.

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1. If a person released on citation does not have satisfactory identification in their possession, a right thumbprint or fingerprint should be obtained on the citation form.
- (f) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.
- (g) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.
- (h) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.
- (i) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented. Reasons may include:
 1. Previous failure to appear is on record
 2. The person lacks ties to the area, such as a residence, job, or family
 3. Unusual circumstances lead the investigator responsible for the release of prisoners to conclude that the suspect should be held for further investigation

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the Supervising Investigator for approval and included with the case file in the Records Section.

409.5 MISDEMEANOR WARRANTS

An adult arrested on a misdemeanor warrant may be released, subject to Supervising Investigator approval, unless any of the following conditions exist:

- (a) The misdemeanor cited in the warrant involves violence.
- (b) The misdemeanor cited in the warrant involves a firearm.
- (c) The misdemeanor cited in the warrant involves resisting arrest.
- (d) The misdemeanor cited in the warrant involves giving false information to a peace investigator.
- (e) The person arrested is a danger to themselves or others due to intoxication or being under the influence of drugs or narcotics.
- (f) The person requires medical examination or medical care or was otherwise unable to care for their own safety.
- (g) The person has other ineligible charges pending against themselves.
- (h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.

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- (i) The person refuses to sign the notice to appear.
- (j) The person cannot provide satisfactory evidence of personal identification.
- (k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear.

Release under this section shall be done in accordance with the provisions of this policy.

409.6 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of the Amador County County codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Investigative Bureau for further action including diversion.

409.7 REQUESTING CASE NUMBERS

Many cases involving a criminal citation release can be handled without requesting a case number. Traffic situations and local code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code sections will require a case number to document the incident properly in a report. This section does not preclude an investigator from requesting a case number if the investigator feels the situation should be documented more thoroughly in a case report.

Foreign Diplomatic and Consular Representatives

410.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Amador County District Attorney's Office Bureau of Investigation extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

410.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

410.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

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410.4 ENFORCEMENT

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
 - 1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
 - (a) Diplomatic-level staff of missions to international organizations and recognized family members
 - (b) Diplomatic agents and recognized family members
 - (c) Members of administrative and technical staff of a diplomatic mission and recognized family members
 - (d) Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
 - 1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
 - 2. Support staff of missions to international organizations
 - 3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
 - 4. Honorary consular officers
 - 5. Whenever an investigator arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the investigator shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the investigator shall begin the notification process.

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410.5 DOCUMENTATION

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

410.6 DIPLOMATIC IMMUNITY TABLE

Reference table on diplomatic immunity:

Category	Arrested or Detained	Enter Residence Subject to Ordinary Procedures	Issued Traffic Citation	Subpoenaed as Witness	Prosecuted	Recognized Family Members
Diplomatic Agent	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Member of Admin and Tech Staff	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Service Staff	Yes (note (a))	Yes	Yes	Yes	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Career Consul Officer	Yes if for a felony and pursuant to a warrant (note (a))	Yes (note (d))	Yes	No for official acts Testimony may not be compelled in any case	No for official acts. Yes otherwise (note (a))	No immunity or inviolability
Honorable Consul Officer	Yes	Yes	Yes	No for official acts Yes otherwise.	No for official acts Yes otherwise	No immunity or inviolability
Consulate Employees	Yes (note (a))	Yes	Yes	No for official acts Yes otherwise.	No for official acts. Yes otherwise (note (a))	No immunity or inviolability (note (a))
Int'l Org Staff (note (b))	Yes (note (c))	Yes (note (c))	Yes	Yes (note (c))	No for official acts. Yes otherwise (note (c))	No immunity or inviolability

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Diplomatic-Level Staff of Missions to Int'l Org	No (note (b))	No	Yes	No	No	Same as sponsor (full immunity & inviolability)
Support Staff of Missions to Int'l Orgs	Yes	Yes	Yes	Yes	No for official acts Yes otherwise	No immunity or inviolability

Notes for diplomatic immunity table:

- (a) This table presents general rules. The employees of certain foreign countries may enjoy higher levels of privileges and immunities on the basis of special bilateral agreements.
- (b) Reasonable constraints, however, may be applied in emergency circumstances involving self-defense, public safety, or in the prevention of serious criminal acts.
- (c) A small number of senior officers are entitled to be treated identically to diplomatic agents.
- (d) Note that consul residences are sometimes located within the official consular premises. In such cases, only the official office space is protected from police entry.

Rapid Response and Deployment

411.1 PURPOSE AND SCOPE

Violence that is committed in schools, workplaces and other locations by individuals or a group of individuals who are determined to target and kill persons and to create mass casualties presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding investigators in situations that call for rapid response and deployment.

411.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation will endeavor to plan for rapid response to crisis situations, if requested, and to coordinate response planning with other emergency services as well as with those that are responsible for operating sites that may be the target of a critical incident.

Nothing in this policy shall preclude the use of reasonable force, deadly or otherwise, by members of the Bureau in protecting themselves or others from death or serious injury.

411.3 CONSIDERATIONS

When dealing with a crisis situation members should:

- (a) Assess the immediate situation and take reasonable steps to maintain operative control of the incident.
- (b) Obtain, explore and analyze sources of intelligence and known information regarding the circumstances, location and suspect involved in the incident.
- (c) Attempt to attain a tactical advantage over the suspect by reducing, preventing or eliminating any known or perceived threat.
- (d) Attempt, if feasible and based upon the suspect's actions and danger to others, a negotiated surrender of the suspect and release of the hostages.

411.4 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding investigators should consider reasonable options to reduce, prevent or eliminate the threat. Investigators must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, investigators should take immediate action, if reasonably practicable, while requesting additional assistance.

Investigators should remain aware of the possibility that an incident may be part of a coordinated multi-location attack that may require some capacity to respond to other incidents at other locations.

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When deciding on a course of action investigators should consider:

- (a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advance or engagement should be based on information known or received at the time.
- (b) Whether to wait for additional resources or personnel. This does not preclude an individual investigator from taking immediate action.
- (c) Whether individuals who are under imminent threat can be moved or evacuated with reasonable safety.
- (d) Whether the suspect can be contained or denied access to victims.
- (e) Whether the investigators have the ability to effectively communicate with other personnel or resources.
- (f) Whether planned tactics can be effectively deployed.
- (g) The availability of rifles, shotguns, shields, breaching tools, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In a case of a barricaded suspect with no hostages and no immediate threat to others, investigators should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).

411.5 PLANNING

The Investigations Bureau Chief should assist, if requested, to coordinate critical incident planning. Planning efforts should consider:

- (a) Identification of likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Availability of building plans and venue schematics of likely critical incident target sites.
- (c) Communications interoperability with other law enforcement and emergency service agencies.
- (d) Training opportunities in critical incident target sites, including joint training with site occupants.
- (e) Evacuation routes in critical incident target sites.
- (f) Patrol first-response training.
- (g) Response coordination and resources of emergency medical and fire services.
- (h) Equipment needs.
- (i) Mutual aid agreements with other agencies.
- (j) Coordination with private security providers in critical incident target sites.

Rapid Response and Deployment

411.6 TRAINING

The Supervising Investigator should include rapid response to critical incidents in the training plan.

This training should address:

- (a) Orientation to likely critical incident target sites, such as schools, shopping centers, entertainment and sporting event venues.
- (b) Communications interoperability with other law enforcement and emergency service agencies.
- (c) This should include the POST terrorism incident training required for investigators assigned to field duties (Penal Code § 13519.12).
- (d) First aid, including gunshot trauma.
- (e) Reality-based scenario training (e.g., active shooter, disgruntled violent worker).

Immigration Violations

412.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Amador County District Attorney's Office Bureau of Investigation relating to immigration and interacting with federal immigration officials.

412.1.1 DEFINITIONS

The following definitions apply to this policy (Government Code § 7284.4):

Criminal immigration violation - Any federal criminal immigration violation that penalizes a person's presence in, entry, or reentry to, or employment in, the United States. This does not include any offense where a judicial warrant already has been issued.

Immigration enforcement - Any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, including any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry or reentry to, or employment in the United States.

Judicial warrant - An arrest warrant for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge.

412.2 POLICY

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

412.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or California constitutions.

412.4 IMMIGRATION INQUIRIES PROHIBITED

Investigators shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

Immigration Violations

412.4.1 CALIFORNIA LAW ENFORCEMENT TELECOMMUNICATIONS SYSTEM (CLETS)

Members shall not use information transmitted through CLETS for immigration enforcement purposes except for criminal history information and only when consistent with the California Values Act (Government Code § 15160).

Members shall not use the system to investigate immigration violations of 8 USC § 1325 (improper entry) if that violation is the only criminal history in an individual's record (Government Code § 15160).

412.5 DETENTIONS AND ARRESTS

An investigator shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An investigator who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 USC § 1326(a) (unlawful reentry) that may be subject to an enhancement due to a previous conviction of an aggravated felony under 8 USC § 1326(b)(2), may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the investigator has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

An investigator shall not detain any individual, for any length of time, for any other criminal immigration violation of federal immigration laws (Government Code § 7284.6).

An investigator should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

412.5.1 SUPERVISOR RESPONSIBILITIES

When notified that an investigator has arrested an individual for violation of 8 USC § 1326(a) or under the authority of a judicial warrant, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Transfer the person to jail.

412.6 FEDERAL REQUESTS FOR ASSISTANCE

Absent an urgent issue of officer safety or other emergency circumstances, requests by federal immigration officials for assistance from this bureau should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

Immigration Violations

412.7 INFORMATION SHARING

No member of this bureau will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in bureau records
- (c) Exchanging such information with any other federal, state, or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

412.7.1 IMMIGRATION DETAINERS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

- (a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).
- (b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state prison.
- (c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
- (d) The individual is a current registrant on the California Sex and Arson Registry.
- (e) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

412.7.2 NOTICE TO INDIVIDUALS

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification, or transfer request along with information as to whether the Amador County District Attorney's Office Bureau of Investigation intends to comply with the request (Government Code § 7283.1).

If the Amador County District Attorney's Office Bureau of Investigation provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

Immigration Violations

412.7.3 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Amador County District Attorney's Office Bureau of Investigation shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

412.7.4 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist (Government Code § 7282.5; Government Code § 7284.6):

- (a) Transfer is authorized by a judicial warrant or judicial probable cause determination.
- (b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
- (c) The individual is a current registrant on the California Sex and Arson Registry.
- (d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

412.7.5 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

The Investigative Bureau supervisor shall ensure that data regarding the number of transfers of an individual to immigration authorities, as permitted by Government Code § 7284.6(a)(4), and the offense that allowed for the transfer is collected and provided to the Legal Secretary Supervisor for required reporting to the DOJ (Government Code § 7284.6(c)(2)(see the Records Section Policy).

412.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigative Bureau supervisor assigned to oversee the handling of any related case. The Investigative Bureau supervisor should:

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

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1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
 2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). Form I-914 Supplement B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking).
- (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 the victim liaison of any requests and their status.

412.8.1 TIME FRAMES FOR COMPLETION

Investigators and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Investigators and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 30 days of a request from the victim, victim's family, or authorized representative (as defined in Penal Code § 679.10 and Penal Code § 679.11) related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within seven days of the first business day following the day the request was received.

412.8.2 REPORTING TO LEGISLATURE

The Investigative Bureau supervisor or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

412.8.3 BUREAU OF INVESTIGATIONS REPORTS

Upon request, an investigator or supervisor should provide a victim or authorized representative with a copy of the report filed by the victim with this bureau within seven days of the request (Penal Code § 679.10).

412.9 TRAINING

The Supervising Investigator should ensure that all appropriate members receive training on immigration issues.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration violation has been committed.

Immigration Violations

- (c) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).

Aircraft Accidents

413.1 PURPOSE AND SCOPE

The purpose of this policy is to provide bureau members with guidelines for assisting with aircraft accidents.

This policy does not supersede, and is supplementary to, applicable portions of the Crime and Disaster Scene Integrity, Emergency Management Plan and Hazardous Material Response policies.

413.1.1 DEFINITIONS

Definitions related to this policy include:

Aircraft - Any fixed wing aircraft, rotorcraft, balloon, blimp/dirigible or glider that is capable of carrying a person or any unmanned aerial vehicle other than those intended for non-commercial recreational use.

413.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to provide assistance with emergency response to aircraft accidents. This includes emergency medical care and scene management if requested.

413.3 ARRIVAL AT SCENE

Investigators or other authorized members tasked with initial scene management should establish an inner and outer perimeter to:

- (a) Protect persons and property.
- (b) Prevent any disturbance or further damage to the wreckage or debris, except to preserve life or rescue the injured.
- (c) Preserve ground scars and marks made by the aircraft.
- (d) Manage the admission and access of public safety and medical personnel to the extent necessary to preserve life or to stabilize hazardous materials.
- (e) Maintain a record of persons who enter the accident site.
- (f) Consider implementation of an Incident Command System (ICS).

413.4 INJURIES AND CASUALTIES

Members should address emergency medical issues and provide care as a first priority.

Those tasked with the supervision of the scene should coordinate with the National Transportation Safety Board (NTSB) before the removal of bodies. If that is not possible, the scene supervisor should ensure documentation of what was disturbed, including switch/control positions and instrument/gauge readings.

Aircraft Accidents

413.5 NOTIFICATIONS

Should an aircraft accident be reported to this bureau, the responding supervisor or investigator shall ensure notification is or has been made to NTSB, the Federal Aviation Administration (FAA), and when applicable, the appropriate branch of the military.

Investigators shall ensure other notifications are made once an aircraft accident has been reported. The notifications will vary depending on the type of accident, extent of injuries or damage, and the type of aircraft involved. When an aircraft accident has occurred, it is generally necessary to notify the following:

- (a) Fire department
- (b) Appropriate airport tower
- (c) Emergency medical services (EMS)

413.6 CONTROLLING ACCESS AND SCENE AUTHORITY

Prior to NTSB arrival, scene access should be limited to authorized personnel from the:

- (a) FAA.
- (b) Fire department, EMS or other assisting law enforcement agencies.
- (c) Coroner.
- (d) Air Carrier/Operators investigative teams with NTSB approval.
- (e) Appropriate branch of the military, when applicable.
- (f) Other emergency services agencies (e.g., hazardous materials teams, biohazard decontamination teams, fuel recovery specialists, explosive ordnance disposal specialists).

The NTSB has primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft accident, the appropriate branch of the military will have primary investigation responsibility.

After the NTSB or military representative arrives on-scene, the efforts of this bureau will shift to a support role for those agencies.

If NTSB or a military representative determines that an aircraft or accident does not qualify under its jurisdiction, the on-scene bureau supervisor or investigator should ensure the accident is still appropriately investigated and documented.

413.7 DANGEROUS MATERIALS

Members should be aware of potentially dangerous materials that might be present. These may include, but are not limited to:

- (a) Fuel, chemicals, explosives, biological or radioactive materials and bombs or other ordnance.
- (b) Pressure vessels, compressed gas bottles, accumulators and tires.

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- (c) Fluids, batteries, flares and igniters.
- (d) Evacuation chutes, ballistic parachute systems and composite materials.

413.8 DOCUMENTATION

If assistance is requested, all aircraft accidents occurring within the County of Amador County shall be documented. At a minimum the documentation should include the date, time and location of the incident; any witness statements, if taken; the names of ACDA members deployed to assist; other County resources that were utilized; and cross reference information to other investigating agencies. Suspected criminal activity should be documented on the appropriate crime report.

413.8.1 WRECKAGE

When reasonably safe, members should:

- (a) Obtain the aircraft registration number (N number) and note the type of aircraft.
- (b) Attempt to ascertain the number of casualties.
- (c) Obtain photographs or video of the overall wreckage, including the cockpit and damage, starting at the initial point of impact, if possible, and any ground scars or marks made by the aircraft.
 - 1. Military aircraft may contain classified equipment and therefore shall not be photographed unless authorized by a military commanding officer (18 USC § 795).
- (d) Secure, if requested by the lead authority, any electronic data or video recorders from the aircraft that became dislodged or cell phones or other recording devices that are part of the wreckage.
- (e) Acquire copies of any recordings from security cameras that may have captured the incident.

413.8.2 WITNESSES

Members tasked with contacting witnesses should obtain:

- (a) The location of the witness at the time of his/her observation relative to the accident site.
- (b) A detailed description of what was observed or heard.
- (c) Any photographs or recordings of the accident witnesses may be willing to voluntarily surrender.
- (d) The names of all persons reporting the accident, even if not yet interviewed.
- (e) Any audio recordings of reports to 9-1-1 regarding the accident and dispatch records.

Obtaining Air Support

414.1 PURPOSE AND SCOPE

The use of a police helicopter can be invaluable in certain situations. This policy specifies potential situations where the use of a helicopter may be requested and the responsibilities for making a request.

414.2 REQUEST FOR HELICOPTER ASSISTANCE

If a supervisor or investigator in charge of an incident determines that the use of a helicopter would be beneficial, a request to obtain helicopter assistance may be made.

414.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY

After consideration and approval of the request for a helicopter, the Supervising Investigator, or his/her designee, will call the closest agency having helicopter support available. The Supervising Investigator on duty will apprise that agency of the specific details of the incident prompting the request.

414.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED

Police helicopters may be requested under any of the following conditions:

- (a) When the helicopter is activated under existing mutual aid agreements
- (b) Whenever the safety of law enforcement personnel is in jeopardy and the presence of the helicopters may reduce such hazard
- (c) When the use of the helicopters will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community
- (d) When a helicopter is needed to locate a person who has strayed or is lost and whose continued absence constitutes a serious health or safety hazard
- (e) Vehicle pursuits

While it is recognized that the availability of helicopter support will generally provide valuable assistance to ground personnel, the presence of a helicopter will rarely replace the need for investigators on the ground.

Contacts and Temporary Detentions

415.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

415.1.1 DEFINITIONS

Definitions related to this policy include:

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

Field interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the investigator's suspicions.

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

Pat-down search - A type of search used by investigators in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the investigator, the detainee, or others.

Reasonable suspicion - When, under the totality of the circumstances, an investigator has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

Temporary detention - When an investigator intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when an investigator actually restrains a person's freedom of movement.

415.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the investigator, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field photograph shall be left to the investigator based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

Contacts and Temporary Detentions

415.3 FIELD INTERVIEWS

Based on observance of suspicious circumstances or upon information from investigation, an investigator may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the investigator's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Amador County District Attorney's Office Bureau of Investigation to strengthen community involvement, community awareness, and problem identification.

415.3.1 INITIATING A FIELD INTERVIEW

When initiating the stop, the investigator should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act
- (b) Actions suggesting that he/she is engaged in a criminal activity
- (c) Presence in an area at an inappropriate hour of the day or night
- (d) Presence in a particular area is suspicious
- (e) Carrying of suspicious objects or items
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon
- (g) Location in proximate time and place to an alleged crime
- (h) Physical description or clothing worn that matches a suspect in a recent crime
- (i) Prior criminal record or involvement in criminal activity as known by the investigator

415.4 PAT-DOWN SEARCHES

Once a valid stop has been made, and consistent with the investigator's training and experience, an investigator may pat a suspect's outer clothing for weapons if the investigator has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the investigator to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
- (b) Where more than one suspect must be handled by a single investigator.
- (c) The hour of the day and the location or neighborhood where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.

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- (e) The actions and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

Whenever practicable, a pat-down search should not be conducted by a lone investigator. A cover investigator should be positioned to ensure safety and should not be involved in the search.

415.5 FIELD PHOTOGRAPHS

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the investigator shall carefully consider, among other things, the factors listed below.

415.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject being photographed knowingly and voluntarily gives consent.

415.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

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

If, prior to taking a photograph, the investigator's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

415.5.3 DISPOSITION OF PHOTOGRAPHS

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.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

415.5.4 SUPERVISOR RESPONSIBILITIES

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

Contacts and Temporary Detentions

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

415.6 WITNESS IDENTIFICATION AND INTERVIEWS

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, investigators should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.
 - 1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
 - 2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, investigators should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by Amador County District Attorney's Office Bureau of Investigation members.
 - 1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

Portable Audio/Video Recorders

416.1 PURPOSE AND SCOPE

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

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any Amador County District Attorney's Office Bureau of Investigation facility, authorized undercover operations, wiretaps or eavesdropping (concealed listening devices).

416.2 POLICY

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

416.3 MEMBER PRIVACY EXPECTATION

All recordings made by members on any bureau-issued device at any time, and any recording made while acting in an official capacity for this bureau, regardless of ownership of the device it was made on, shall remain the property of the Bureau. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

416.4 MEMBER RESPONSIBILITIES

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

Any member may carry an approved portable recorder at any time the member believes that such a device may be useful.

When using a portable recorder, the assigned member should record his/her name, ACDA and the current date and time at the beginning or other period of use.

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

416.4.1 SUPERVISOR RESPONSIBILITIES

Supervisors should take custody of a portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved

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shooting or death or other serious incident, and ensure the data is downloaded (Penal Code § 832.18).

416.5 ACTIVATION OF THE PORTABLE RECORDER

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Members should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

The portable recorder should be activated in any of the following situations:

- (a) All enforcement and investigative contacts including stops and field interview (FI) situations
- (b) Traffic stops including, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops
- (c) Self-initiated activity
- (d) Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

416.5.1 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

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

416.5.2 SURREPTITIOUS USE OF THE PORTABLE RECORDER

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

Portable Audio/Video Recorders

Members shall not surreptitiously record another bureau member without a court order unless lawfully authorized by the Chief Investigator or the authorized designee.

416.5.3 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.

416.6 PROHIBITED USE OF PORTABLE RECORDERS

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

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

Members are prohibited from using personally owned recording devices while on-duty without the express consent of the Supervising Investigator. Any member who uses a personally owned recorder for bureau-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

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

416.7 IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving data and recordings, members should download, tag or mark these in accordance with procedure and document the existence of the recording in any related case report.

A member should transfer, tag or mark recordings when the member reasonably believes:

- (a) The recording contains evidence relevant to potential criminal, civil or administrative matters.
- (b) A complainant, victim or witness has requested non-disclosure.
- (c) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person.
- (d) Disclosure may be an unreasonable violation of someone's privacy.
- (e) Medical or mental health information is contained.
- (f) Disclosure may compromise an undercover officer or confidential informant.

Portable Audio/Video Recorders

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.

416.8 RETENTION OF RECORDINGS

Recordings of the following should be retained for a minimum of two years (Penal Code § 832.18):

- (a) Incidents involving use of force by an investigator
- (b) Officer-involved shootings
- (c) Incidents that lead to the detention or arrest of an individual
- (d) Recordings relevant to a formal or informal complaint against an investigator or the Amador County District Attorney's Office Bureau of Investigation

Recordings containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18).

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

Records or logs of access and deletion of recordings should be retained permanently (Penal Code § 832.18).

416.8.1 RELEASE OF AUDIO/VIDEO RECORDINGS

Requests for the release of audio/video recordings shall be processed in accordance with the Records Maintenance and Release Policy.

416.9 REVIEW OF RECORDED MEDIA FILES

When preparing written reports, members should review their recordings as a resource (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). However, members shall not retain personal copies of recordings. Members should not use the fact that a recording was made as a reason to write a less detailed report.

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

Recorded files may also be reviewed:

- (a) Upon approval by a supervisor, by any member of the Bureau who is participating in an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- (b) Pursuant to lawful process or by court personnel who are otherwise authorized to review evidence in a related case.
- (c) By media personnel with permission of the Chief Investigator or the authorized designee.

Portable Audio/Video Recorders

- (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 District Attorney 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.

Public Recording of Law Enforcement Activity

417.1 PURPOSE AND SCOPE

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

417.2 POLICY

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

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

417.3 RECORDING LAW ENFORCEMENT ACTIVITY

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

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

417.4 INVESTIGATOR RESPONSE

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

Public Recording of Law Enforcement Activity

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

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

417.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the investigator and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of Bureau members, such as how and where to file a complaint.

417.6 SEIZING RECORDINGS AS EVIDENCE

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

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
 1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
 1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.

Public Recording of Law Enforcement Activity

2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a bureau-owned device.

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

Medical Marijuana

418.1 PURPOSE AND SCOPE

The purpose of this policy is to provide members of this bureau with guidelines for investigating the acquisition, possession, transportation, delivery, production or use of marijuana under California's medical marijuana laws.

418.1.1 DEFINITIONS

Definitions related to this policy include:

Cardholder - A person issued a current identification card.

Compassionate Use Act (CUA) (Health and Safety Code § 11362.5) - California law intended to provide protection from prosecution to those who are seriously ill and whose health would benefit from the use of marijuana in the treatment of illness for which marijuana provides relief. The CUA does not grant immunity from arrest but rather provides an affirmative defense from prosecution for possession of medical marijuana.

Identification card - A valid document issued by the California Department of Public Health to both persons authorized to engage in the medical use of marijuana and also to designated primary caregivers.

Medical marijuana - Marijuana possessed by a patient or primary caregiver for legitimate medical purposes.

Medical Marijuana Program (MMP) (Health and Safety Code § 11362.7 et seq.) - California laws passed following the CUA to facilitate the prompt identification of patients and their designated primary caregivers in order to avoid unnecessary arrests and provide needed guidance to law enforcement officers. MMP prohibits arrest for possession of medical marijuana in certain circumstances and provides a defense in others.

Patient - A person who is entitled to the protections of the CUA because he/she has received a written or oral recommendation or approval from a physician to use marijuana for medical purposes or any person issued a valid identification card.

Primary caregiver - A person designated by the patient, who has consistently assumed responsibility for the patient's housing, health or safety, who may assist the patient with the medical use of marijuana under the CUA or the MMP (Health and Safety Code § 11362.5; Health and Safety Code § 11362.7).

Statutory amount - No more than 8 ounces of dried, mature, processed female marijuana flowers ("bud") or the plant conversion (e.g., kief, hash, hash oil), and no more than six mature or 12 immature marijuana plants (roots, stems and stem fibers should not be considered) (Health and Safety Code § 11362.77).

Medical Marijuana

418.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to prioritize resources to forgo making arrests related to marijuana that the arresting investigator reasonably believes would not be prosecuted by state or federal authorities.

California's medical marijuana laws are intended to provide protection to those who are seriously ill and whose health would benefit from the use of medical marijuana.

However, California medical marijuana laws do not affect federal laws and there is no medical exception under federal law for the possession or distribution of marijuana. The Amador County District Attorney's Office Bureau of Investigation will exercise discretion to ensure laws are appropriately enforced without unreasonably burdening both those individuals protected under California law and public resources.

418.3 INVESTIGATION

Investigations involving the possession, delivery, production or use of marijuana generally fall into one of several categories:

- (a) Investigations when no person makes a medicinal claim.
- (b) Investigations when a medicinal claim is made by a cardholder.
- (c) Investigations when a medicinal claim is made by a non-cardholder.

418.3.1 INVESTIGATIONS WITH NO MEDICINAL CLAIM

In any investigation involving the possession, delivery, production or use of marijuana or drug paraphernalia where no person claims that the marijuana is used for medicinal purposes, the investigator should proceed with a criminal investigation if the amount is greater than permitted for personal use under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1; Health and Safety Code § 11362.2). A medicinal defense may be raised at any time, so investigators should document any statements and observations that may be relevant to whether the marijuana was possessed or produced for medicinal purposes.

418.3.2 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A CARDHOLDER

A cardholder or designated primary caregiver in possession of an identification card shall not be arrested for possession, transportation, delivery or cultivation of medical marijuana at or below the statutory amount unless there is probable cause to believe that (Health and Safety Code § 11362.71; Health and Safety Code § 11362.78):

- (a) The information contained in the card is false or falsified.
- (b) The card has been obtained or used by means of fraud.
- (c) The person is otherwise in violation of the provisions of the MMP.
- (d) The person possesses marijuana but not for personal medical purposes.

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Investigators who reasonably believe that a person who does not have an identification card in his/her possession has been issued an identification card may treat the investigation as if the person had the card in his/her possession.

Cardholders may possess, transport, deliver or cultivate medical marijuana in amounts above the statutory amount if their doctor has concluded that the statutory amount does not meet the patient's medical needs (Health and Safety Code § 11362.71; Health and Safety Code § 11362.77). Investigations involving cardholders with more than the statutory amount of marijuana should be addressed as provided in this policy for a case involving a medicinal claim made by a non-cardholder.

418.3.3 INVESTIGATIONS INVOLVING A MEDICINAL CLAIM MADE BY A NON-CARDHOLDER

No patient or primary caregiver should be arrested for possession or cultivation of an amount of medical marijuana if the investigator reasonably believes that marijuana is in a form and amount reasonably related to the qualified patient's current medical needs (Health and Safety Code § 11362.5). This arrest guidance also applies to sales, transportation or delivery of medical marijuana, or maintaining/renting a drug house or building that may be a nuisance if otherwise in compliance with MMP (Health and Safety Code § 11362.765).

Investigators are not obligated to accept a person's claim of having a physician's recommendation when the claim cannot be readily verified with the physician but are expected to use their judgment to assess the validity of the person's medical-use claim.

Investigators should review any available written documentation for validity and whether it contains the recommending physician's name, telephone number, address and medical license number for verification.

Investigators should generally accept verified recommendations by a physician that statutory amounts do not meet the patient's needs (Health and Safety Code § 11362.77).

418.3.4 INVESTIGATIONS INVOLVING A STATE LICENSEE

No person issued a state license under the Business and Professions Code shall be arrested or cited for cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution or sale of medical cannabis or a medical cannabis product related to qualifying patients and primary caregivers when conducted lawfully. Whether conduct is lawful may involve questions of license classifications, local ordinances, specific requirements of the Business and Professions Code and adopted regulations. Investigators should consider conferring with a supervisor, the applicable state agency or other member with special knowledge in this area and/or appropriate legal counsel before taking enforcement action against a licensee or an employee or agent (Business and Professions Code § 26032).

418.3.5 ADDITIONAL CONSIDERATIONS

Investigators should consider the following when investigating an incident involving marijuana possession, delivery, production, or use:

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- (a) Because enforcement of medical marijuana laws can be complex, time consuming, and call for resources unavailable at the time of initial investigation, investigators may consider submitting a report to the prosecutor for review, in lieu of making an arrest. This can be particularly appropriate when:
 - 1. The suspect has been identified and can be easily located at a later time.
 - 2. The case would benefit from review by a person with expertise in medical marijuana investigations.
 - 3. Sufficient evidence, such as photographs or samples, has been lawfully obtained.
 - 4. Other relevant factors, such as available bureau resources and time constraints prohibit making an immediate arrest.
- (b) Whenever the initial investigation reveals an amount of marijuana greater than the statutory amount, investigators should consider the following when determining whether the form and amount is reasonably related to the patient's needs:
 - 1. The amount of marijuana recommended by a medical professional to be ingested.
 - 2. The quality of the marijuana.
 - 3. The method of ingestion (e.g., smoking, eating, nebulizer).
 - 4. The timing of the possession in relation to a harvest (patient may be storing marijuana).
 - 5. Whether the marijuana is being cultivated indoors or outdoors.
- (c) Before proceeding with enforcement related to collective gardens or dispensaries, investigators should consider conferring with a supervisor, an applicable state regulatory agency or other member with special knowledge in this area, and/or appropriate legal counsel (Business and Professions Code § 26010; Business and Professions Code § 26060). Licensing, zoning, and other related issues can be complex. Patients, primary caregivers, and cardholders who collectively or cooperatively cultivate marijuana for medical purposes may be licensed or may have a defense in certain circumstances (Business and Professions Code § 26032; Business and Professions Code § 26033).
- (d) Investigating members should not order a patient to destroy marijuana plants under threat of arrest.

418.3.6 EXCEPTIONS

This policy does not apply to, and investigators should consider taking enforcement action for the following:

- (a) Persons who engage in illegal conduct that endangers others, such as driving under the influence of marijuana in violation of the Vehicle Code (Health and Safety Code § 11362.5).

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- (b) Marijuana possession in jails or other correctional facilities that prohibit such possession (Health and Safety Code § 11362.785).
- (c) Smoking marijuana (Health and Safety Code § 11362.79):
 - 1. In any place where smoking is prohibited by law.
 - 2. In or within 1,000 feet of the grounds of a school, recreation center or youth center, unless the medical use occurs within a residence.
 - 3. On a school bus.
 - 4. While in a motor vehicle that is being operated.
 - 5. While operating a boat.
- (d) Use of marijuana by a person on probation or parole, or on bail and use is prohibited by the terms of release (Health and Safety Code § 11362.795).

418.4 FEDERAL LAW ENFORCEMENT

Investigators should provide information regarding a marijuana investigation to federal law enforcement authorities when it is requested by federal law enforcement authorities or whenever the investigator believes those authorities would have a particular interest in the information.

418.5 EVIDENCE ROOM INVESTIGATOR RESPONSIBILITIES

The investigator should ensure that marijuana, drug paraphernalia or other related property seized from a person engaged or assisting in the use of medical marijuana is not destroyed pending any charges and without a court order. The investigator will not care for live marijuana plants.

Upon the prosecutor's decision to forgo prosecution, or the dismissal of charges or an acquittal, the investigators should, as soon as practicable, return to the person from whom it was seized any useable medical marijuana, plants, drug paraphernalia or other related property.

The investigators may release marijuana to federal law enforcement authorities upon presentation of a valid court order or by a written order of the District Attorney.

Foot Pursuits

419.1 PURPOSE AND SCOPE

This policy provides guidelines to assist investigators in making the decision to initiate or continue the pursuit of suspects on foot.

419.2 POLICY

It is the policy of this bureau that investigators, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the suspect with the risk and potential for injury to bureau members, the public or the suspect.

Investigators are expected to act reasonably, based on the totality of the circumstances.

419.3 DECISION TO PURSUE

The safety of bureau members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Investigators must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and bureau members.

Investigators may be justified in initiating a foot pursuit of any individual the investigator reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity or being wanted by law enforcement.

Deciding to initiate or continue a foot pursuit is a decision that an investigator must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place bureau members and the public at significant risk. Therefore, no investigator or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an investigator should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

- (a) Containment of the area.
- (b) Saturation of the area with law enforcement personnel, including assistance from other agencies.
- (c) A canine search.
- (d) Thermal imaging or other sensing technology.

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- (e) Air support.
- (f) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.

419.4 GENERAL GUIDELINES

When reasonably practicable, investigators should consider alternatives to engaging in or continuing a foot pursuit when:

- (a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory
- (b) The investigator is acting alone.
- (c) Two or more investigators become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single investigator keep the suspect in sight from a safe distance and coordinate the containment effort.
- (d) The investigator is unsure of his/her location and direction of travel.
- (e) The investigator is pursuing multiple suspects and it is not reasonable to believe that the investigator would be able to control the suspect should a confrontation occur.
- (f) The physical condition of the investigator renders him/her incapable of controlling the suspect if apprehended.
- (g) The investigator loses radio contact with the dispatcher or with assisting or backup investigators.
- (h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient investigators to provide backup and containment. The primary investigator should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.
- (i) The investigator becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to investigators or the public.
- (j) The investigator reasonably believes that the danger to the pursuing investigators or public outweighs the objective of immediate apprehension.
- (k) The investigator loses possession of his/her firearm or other essential equipment.
- (l) The investigator or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.

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- (m) The suspect's location is no longer definitely known.
- (n) The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to bureau members or the public if the suspect is not immediately apprehended.
- (o) The investigator's ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

419.5 RESPONSIBILITIES IN FOOT PURSUITS

419.5.1 INITIATING INVESTIGATOR RESPONSIBILITIES

Unless relieved by another investigator or a supervisor, the initiating investigator shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating investigator should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient investigators are present to safely apprehend the suspect.

Early communication of available information from the involved investigators is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Investigators initiating a foot pursuit should, at a minimum, broadcast the following information as soon as it becomes practicable and available:

- (a) Location and direction of travel
- (b) Call sign identifier
- (c) Reason for the foot pursuit, such as the crime classification
- (d) Number of suspects and description, to include name if known
- (e) Whether the suspect is known or believed to be armed with a dangerous weapon

Investigators should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any investigator unable to promptly and effectively broadcast this information should terminate the foot pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the investigator will notify the dispatcher of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary, to include requesting medical aid as needed for investigators, suspects or members of the public.

Foot Pursuits

419.5.2 ASSISTING INVESTIGATOR RESPONSIBILITIES

Whenever any investigator announces that he/she is engaged in a foot pursuit, all other investigators should minimize non-essential radio traffic to permit the involved investigators maximum access to the radio frequency.

419.5.3 SUPERVISOR RESPONSIBILITIES

Upon becoming aware of a foot pursuit, the supervisor should make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the foot pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established bureau guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing investigators or the public appears to unreasonably outweigh the objective of immediate apprehension of the suspect.

Upon apprehension of the suspect, the supervisor shall promptly proceed to the termination point to direct the post-foot pursuit activity.

419.6 REPORTING REQUIREMENTS

The initiating investigator shall complete appropriate crime/arrest reports documenting, at minimum:

- (a) Date and time of the foot pursuit.
- (b) Initial reason and circumstances surrounding the foot pursuit.
- (c) Course and approximate distance of the foot pursuit.
- (d) Alleged offenses.
- (e) Involved vehicles and investigators.
- (f) Whether a suspect was apprehended as well as the means and methods used.
 - 1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.
- (g) Arrestee information, if applicable.
- (h) Any injuries and/or medical treatment.
- (i) Any property or equipment damage.
- (j) Name of the supervisor at the scene or who handled the incident.

Assisting investigators taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

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In any case in which a suspect is not apprehended and there is insufficient information to support further investigation, a supervisor may authorize that the initiating investigator need not complete a formal report.

Homeless Persons

420.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that personnel understand the needs and rights of the homeless and to establish procedures to guide investigators during all contacts with the homeless, whether consensual or for enforcement purposes. The Amador County District Attorney's Office Bureau of Investigation recognizes that members of the homeless community are often in need of special protection and services. The Amador County District Attorney's Office Bureau of Investigation will address these needs in balance with the overall mission of this bureau. Therefore, investigators will consider the following when serving the homeless community.

420.1.1 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to provide law enforcement services to all members of the community, while protecting the rights, dignity and private property of the homeless. Homelessness is not a crime and members of this bureau will not use homelessness solely as a basis for detention or law enforcement action.

420.2 FIELD CONTACTS

Investigators are encouraged to contact the homeless for purposes of rendering aid, support and for community-oriented policing purposes. Nothing in this policy is meant to dissuade an investigator from taking reasonable enforcement action when facts support a reasonable suspicion of criminal activity. However, when encountering a homeless person who has committed a non-violent misdemeanor and continued freedom is not likely to result in a continuation of the offense or a breach of the peace, investigators are encouraged to consider long-term solutions to problems that may relate to the homeless, such as shelter referrals and counseling in lieu of physical arrest.

Investigators should provide homeless persons with resource and assistance information whenever it is reasonably apparent that such services may be appropriate.

420.2.1 OTHER CONSIDERATIONS

Homeless members of the community will receive the same level and quality of service provided to other members of the community. The fact that a victim or witness is homeless can, however, require special considerations for a successful investigation and prosecution. Investigators should consider the following when handling investigations involving homeless victims, witnesses or suspects:

- (a) Document alternate contact information. This may include obtaining addresses and phone numbers of relatives and friends.
- (b) Document places the homeless person may frequent.
- (c) Provide homeless victims with victim/witness resources when appropriate.
- (d) Obtain statements from all available witnesses in the event that a homeless victim is unavailable for a court appearance.

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- (e) Consider whether the person may be a dependent adult or elder, and if so, proceed in accordance with the Senior and Disability Victimization Policy.
- (f) Arrange for transportation for investigation-related matters, such as medical exams and court appearances.
- (g) Consider whether a crime should be reported and submitted for prosecution, even when a homeless victim indicates that he/she does not desire prosecution.

420.3 PERSONAL PROPERTY

The personal property of homeless persons must not be treated differently than the property of other members of the public. Investigators should use reasonable care when handling, collecting and retaining the personal property of homeless persons and should not destroy or discard the personal property of a homeless person.

When a homeless person is arrested or otherwise removed from a public place, investigators should make reasonable accommodations to permit the person to lawfully secure his/her personal property. Otherwise, the personal property should be collected for safekeeping. If the arrestee has more personal property than can reasonably be collected and transported by the investigator, a supervisor should be consulted. The property should be photographed and measures should be taken to remove or secure the property. It will be the supervisor's responsibility to coordinate the removal and safekeeping of the property.

Investigators should not conduct or assist in clean-up operations of belongings that reasonably appear to be the property of homeless persons without the prior authorization of a supervisor. When practicable, requests by the public for clean-up of a homeless encampment should be referred to the law enforcement agency in the jurisdiction in which the encampment is located.

Investigators who encounter unattended encampments, bedding or other personal property in public areas that reasonably appears to belong to a homeless person should not remove or destroy such property and should inform the law enforcement agency in the jurisdiction in which the encampment is located, if such property appears to involve a trespass, blight to the community or is the subject of a complaint.

420.4 MENTAL ILLNESS AND MENTAL IMPAIRMENT

Some homeless persons may suffer from a mental illness or a mental impairment. Investigators shall not detain a homeless person under a mental illness commitment unless facts and circumstances warrant such a detention (see the Crisis Intervention Incidents Policy).

When a mental illness hold is not warranted, the contacting investigator should provide the homeless person with contact information for mental health assistance as appropriate. In these circumstances, investigators may provide transportation to a mental health specialist if requested by the person and approved by a supervisor.

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420.5 ECOLOGICAL ISSUES

Sometimes homeless encampments can impact the ecology and natural resources of the community and may involve criminal offenses beyond mere littering. Investigators are encouraged to notify other appropriate agencies or departments when a significant impact to the environment has or is likely to occur. Significant impacts to the environment may warrant a crime report, investigation, supporting photographs and supervisor notification.

First Amendment Assemblies

421.1 PURPOSE AND SCOPE

This policy provides guidance for responding to public assemblies or demonstrations.

421.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation respects the rights of people to peaceably assemble. It is the policy of this bureau not to unreasonably interfere with, harass, intimidate or discriminate against persons engaged in the lawful exercise of their rights, while also preserving the peace, protecting life and preventing the destruction of property.

421.3 GENERAL CONSIDERATIONS

Individuals or groups present on the public way, such as public facilities, streets or walkways, generally have the right to assemble, rally, demonstrate, protest or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. These rights may be limited by laws or ordinances regulating such matters as the obstruction of individual or vehicle access or egress, trespass, noise, picketing, distribution of handbills and leafleting, and loitering. However, investigators shall not take action or fail to take action based on the opinions being expressed.

Participant behavior during a demonstration or other public assembly can vary. This may include, but is not limited to:

- Lawful, constitutionally protected actions and speech.
- Civil disobedience (typically involving minor criminal acts).
- Rioting.

All of these behaviors may be present during the same event. Therefore, it is imperative that law enforcement actions are measured and appropriate for the behaviors investigators may encounter. This is particularly critical if force is being used. Adaptable strategies and tactics are essential. The purpose of a law enforcement presence at the scene of public assemblies and demonstrations should be to preserve the peace, to protect life and prevent the destruction of property.

Investigators should not:

- (a) Engage in assembly or demonstration-related discussion with participants.
- (b) Harass, confront or intimidate participants.
- (c) Seize the cameras, cell phones or materials of participants or observers unless an investigator is placing a person under lawful arrest.

Supervisors should continually observe bureau members under their commands to ensure that members' interaction with participants and their response to crowd dynamics is appropriate.

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421.3.1 PHOTOGRAPHS AND VIDEO RECORDINGS

Photographs and video recording, when appropriate, can serve a number of purposes, including support of criminal prosecutions by documenting criminal acts; assistance in evaluating bureau performance; serving as training material; recording the use of dispersal orders; and facilitating a response to allegations of improper law enforcement conduct.

Photographs and videos will not be used or retained for the sole purpose of collecting or maintaining information about the political, religious or social views of associations, or the activities of any individual, group, association, organization, corporation, business or partnership, unless such information directly relates to an investigation of criminal activities and there is reasonable suspicion that the subject of the information is involved in criminal conduct.

421.4 UNPLANNED EVENTS

When responding to an unplanned or spontaneous public gathering, the first responding investigator should conduct an assessment of conditions, including, but not limited to, the following:

- Location
- Number of participants
- Apparent purpose of the event
- Leadership (whether it is apparent and/or whether it is effective)
- Any initial indicators of unlawful or disruptive activity
- Indicators that lawful use of public facilities, streets or walkways will be impacted
- Ability and/or need to continue monitoring the incident

Initial assessment information should be promptly communicated to Dispatch, and the assignment of a supervisor should be requested. Additional resources should be requested as appropriate. The responding supervisor shall assume command of the incident until command is expressly assumed by another, and the assumption of command is communicated to the involved members. A clearly defined command structure that is consistent with the Incident Command System (ICS) should be established as resources are deployed.

421.5 PLANNED EVENT PREPARATION

For planned events, comprehensive, incident-specific operational plans should be developed. The ICS should be considered for such events.

421.5.1 INFORMATION GATHERING AND ASSESSMENT

In order to properly assess the potential impact of a public assembly or demonstration on public safety and order, relevant information should be collected and vetted. This may include:

- Information obtained from outreach to group organizers or leaders.

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- Information about past and potential unlawful conduct associated with the event or similar events.
- The potential time, duration, scope, and type of planned activities.
- Any other information related to the goal of providing a balanced response to criminal activity and the protection of public safety interests.

Information should be obtained in a transparent manner, and the sources documented. Relevant information should be communicated to the appropriate parties in a timely manner.

Information will be obtained in a lawful manner and will not be based solely on the purpose or content of the assembly or demonstration, or actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability of the participants (or any other characteristic that is unrelated to criminal conduct or the identification of a criminal subject).

421.5.2 MUTUAL AID AND EXTERNAL RESOURCES

The magnitude and anticipated duration of an event may necessitate interagency cooperation and coordination.

421.6 USE OF FORCE

Use of force is governed by current bureau policy and applicable law (see the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies).

Individuals refusing to comply with lawful orders (e.g., nonviolent refusal to disperse) should be given a clear verbal warning and a reasonable opportunity to comply. If an individual refuses to comply with lawful orders, the Incident Commander shall evaluate the type of resistance and adopt a reasonable response in order to accomplish the law enforcement mission (such as dispersal or arrest of those acting in violation of the law). Control devices and TASER® devices should be considered only when the participants' conduct reasonably appears to present the potential to harm investigators, themselves or others, or will result in substantial property loss or damage (see the Control Devices and Techniques and the Conducted Energy Device policies).

Force or control devices, including oleoresin capsaicin (OC), should be directed toward individuals and not toward groups or crowds, unless specific individuals cannot reasonably be targeted due to extreme circumstances, such as a riotous crowd.

Any use of force by a member of this bureau shall be documented promptly, completely and accurately in an appropriate report. The type of report required may depend on the nature of the incident.

421.7 ARRESTS

The Amador County District Attorney's Office Bureau of Investigation should respond to unlawful behavior in a manner that is consistent with the operational plan. If practicable, warnings or advisements should be communicated prior to arrest.

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Mass arrests should be employed only when alternate tactics and strategies have been, or reasonably appear likely to be, unsuccessful. Mass arrests shall only be undertaken upon the order of the Incident Commander or the authorized designee. There must be probable cause for each arrest.

If employed, mass arrest protocols should fully integrate:

- (a) Reasonable measures to address the safety of investigators and arrestees.
- (b) Dedicated arrest, booking and report writing teams.
- (c) Timely access to medical care.
- (d) Timely access to legal resources.
- (e) Timely processing of arrestees.
- (f) Full accountability for arrestees and evidence.
- (g) Coordination and cooperation with the prosecuting authority, jail and courts (see the Cite and Release Policy).

421.8 MEDIA RELATIONS

The District Attorney should use all available avenues of communication, including press releases, briefings, press conferences, and social media to maintain open channels of communication with media representatives and the public about the status and progress of the event, taking all opportunities to reassure the public about the professional management of the event (see the Media Relations Policy).

421.8.1 MEDIA ACCESS

If investigators close the immediate area surrounding any emergency field command post or any other command post, or establish a police line, or rolling closure at a demonstration, march, protest, or rally where individuals are engaged in a protected activity pursuant to the First Amendment, investigators shall comply with the requirements of Penal Code § 409.7 relating to media access (i.e., access to closed areas, obtaining information) (Penal Code § 409.7).

421.9 DEMOBILIZATION

When appropriate, the Incident Commander or the authorized designee should implement a phased and orderly withdrawal of law enforcement resources. All relieved personnel should promptly complete any required reports, including use of force reports, and account for all issued equipment and vehicles to their supervisors prior to returning to normal operational duties.

421.10 POST EVENT

The Incident Commander should designate a member to assemble full documentation of the event, to include the following:

- (a) Operational plan
- (b) Any incident logs

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- (c) Any assignment logs
- (d) Vehicle, fuel, equipment and supply records
- (e) Incident, arrest, use of force, injury and property damage reports
- (f) Photographs, audio/video recordings, Dispatch records/tapes
- (g) Media accounts (print and broadcast media)

421.10.1 AFTER-ACTION REPORTING

The Incident Commander should work with County legal counsel, as appropriate, to prepare a comprehensive after-action report of the event, explaining all incidents where force was used including the following:

- (a) Date, time and description of the event
- (b) Actions taken and outcomes (e.g., injuries, property damage, arrests)
- (c) Problems identified
- (d) Significant events
- (e) Recommendations for improvement; opportunities for training should be documented in a generic manner, without identifying individuals or specific incidents, facts or circumstances.

421.11 TRAINING

Bureau members should receive periodic training regarding this policy, as well as the dynamics of crowd control and incident management (Penal Code § 13514.5). The Bureau should, when practicable, train with its external and mutual aid partners.

Investigators should also receive periodic training on the standards for the use of kinetic energy projectiles and chemical agents for crowd control purposes as identified in Penal Code § 13652.

421.12 USE OF KINETIC ENERGY PROJECTILES AND CHEMICAL AGENTS FOR CROWD CONTROL

Kinetic energy projectiles and chemical agents for crowd control purposes shall only be deployed by investigators who have received POST training for crowd control if the use is objectively reasonable to defend against a threat to life or serious bodily injury to any individual, including an investigator, or to bring an objectively dangerous and unlawful situation safely and effectively under control (Penal Code § 13652).

421.12.1 USE SUMMARY

The Investigations Bureau Chief or the authorized designee should ensure that a summary of each deployment of kinetic energy projectiles or chemical agents for crowd control purposes is prepared and published on the bureau website within 60 days of each incident. The time frame may be extended for another 30 days where just cause is demonstrated, but no longer than 90 days from the time of the incident. The summary shall be limited to the information known to the Bureau at the time of the report and include the information required in Penal Code § 13652.1.

Civil Disputes

422.1 PURPOSE AND SCOPE

This policy provides members of the Amador County District Attorney's Office Bureau of Investigation with guidance for addressing conflicts between persons when no criminal investigation or enforcement action is warranted (e.g., civil matters), with the goal of minimizing any potential for violence or criminal acts.

The Domestic Violence Policy will address specific legal mandates related to domestic violence court orders. References in this policy to “court orders” apply to any order of a court that does not require arrest or enforcement by the terms of the order or by California law.

422.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation recognizes that a law enforcement presence at a civil dispute can play an important role in the peace and safety of the community. Subject to available resources, members of this bureau should assist if requested at the scene of civil disputes with the primary goal of safeguarding persons and property, preventing criminal activity and maintaining the peace. When handling civil disputes, members will remain impartial, maintain a calm presence, give consideration to all sides and refrain from giving legal or inappropriate advice.

422.3 GENERAL CONSIDERATIONS

When appropriate, members handling a civil dispute should encourage the involved parties to seek the assistance of resolution services or take the matter to the civil courts. Members must not become personally involved in disputes and shall at all times remain impartial.

While not intended to be an exhaustive list, members should give considerations to the following when handling civil disputes:

- (a) Civil disputes tend to be confrontational and members should be alert that they can escalate to violence very quickly. De-escalation techniques should be used when appropriate.
- (b) Members should not dismiss alleged or observed criminal violations as a civil matter and should initiate the appropriate investigation and report when criminal activity is apparent.
- (c) Members shall not provide legal advice, however, when appropriate, members should inform the parties when they are at risk of violating criminal laws.
- (d) Members are reminded that they shall not enter a residence or other non-public location without legal authority including valid consent.
- (e) Members should not take an unreasonable amount of time assisting in these matters and generally should contact a supervisor if it appears that peacekeeping efforts longer than 30 minutes are warranted.

Civil Disputes

422.4 COURT ORDERS

Disputes involving court orders can be complex. Where no mandate exists for an investigator to make an arrest for a violation of a court order, the matter should be addressed by referring it to the jurisdiction in which the violation occurred or documenting any apparent court order violation in a report. If there appears to be a more immediate need for enforcement action, the investigator should consult a supervisor prior to making any arrest, or refer it to the law enforcement agency in the jurisdiction in which it occurred.

If a person appears to be violating the terms of a court order but is disputing the validity of the order or its applicability, the investigating investigator should document the following:

- (a) The person's knowledge of the court order or whether proof of service exists.
- (b) Any specific reason or rationale the involved person offers for not complying with the terms of the order.

A copy of the court order should be attached to the report when available. The report should be forwarded to the appropriate prosecutor. The report should also be forwarded to the court issuing the order with a notice that the report was also forwarded to the prosecutor for review.

422.4.1 STANDBY REQUESTS

Investigators responding to assist with a call for standby assistance to retrieve property should meet the person requesting assistance at a neutral location to discuss the process. The person should be advised that items that are disputed will not be allowed to be removed. The member may advise the person to seek private legal advice as to the distribution of disputed property.

Members should accompany the person to the location of the property. Members should ask if the other party will allow removal of the property or whether the other party would remove the property.

If the other party is uncooperative, the person requesting standby assistance should be instructed to seek private legal advice and obtain a court order to obtain the items. Investigators should not order the other party to allow entry or the removal of any items. If there is a restraining or similar order against the person requesting standby assistance, that person should be asked to leave the scene or they may be subject to arrest for violation of the order.

If the other party is not present at the location, the member will not allow entry into the location or the removal of property from the location.

422.5 VEHICLES AND PERSONAL PROPERTY

Investigators may be faced with disputes regarding possession or ownership of vehicles or other personal property. Investigators may review documents provided by parties or available databases (e.g., vehicle registration), but should be aware that legal possession of vehicles or personal property can be complex. Generally, investigators should not take any enforcement action unless a crime is apparent. The people and the vehicle or personal property involved should be identified and the incident documented.

Civil Disputes

422.6 REAL PROPERTY

Disputes over possession or occupancy of real property (e.g., land, homes, apartments) should generally be handled through a person seeking a court order.

Medical Aid and Response

423.1 PURPOSE AND SCOPE

This policy recognizes that members often encounter persons in need of medical aid and establishes a law enforcement response to such situations.

423.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation that all investigators and other designated members be trained to provide emergency medical aid and to facilitate an emergency medical response.

423.3 FIRST RESPONDING MEMBER RESPONSIBILITIES

Whenever practicable, members should take appropriate steps to provide initial medical aid (e.g., first aid, CPR, use of an automated external defibrillator (AED)) in accordance with their training and current certification levels. This should be done for those in need of immediate care and only when the member can safely do so.

Prior to initiating medical aid, the member should contact Dispatch and request response by Emergency Medical Services (EMS) as the member deems appropriate.

Members should follow universal precautions when providing medical aid, such as wearing gloves and avoiding contact with bodily fluids, consistent with the Communicable Diseases Policy. Members should use a barrier or bag device to perform rescue breathing.

When requesting EMS, the member should provide Dispatch with information for relay to EMS personnel in order to enable an appropriate response, including:

- (a) The location where EMS is needed.
- (b) The nature of the incident.
- (c) Any known scene hazards.
- (d) Information on the person in need of EMS, such as:
 1. Signs and symptoms as observed by the member.
 2. Changes in apparent condition.
 3. Number of patients, sex, and age, if known.
 4. Whether the person is conscious, breathing, and alert, or is believed to have consumed drugs or alcohol.
 5. Whether the person is showing signs or symptoms of excited delirium or other agitated chaotic behavior.

Members should stabilize the scene whenever practicable while awaiting the arrival of EMS.

Members should not direct EMS personnel whether to transport the person for treatment.

Medical Aid and Response

423.4 TRANSPORTING ILL AND INJURED PERSONS

Except in extraordinary cases where alternatives are not reasonably available, members should not transport persons who are unconscious, who have serious injuries or who may be seriously ill. EMS personnel should be called to handle patient transportation.

Investigators should search any person who is in custody before releasing that person to EMS for transport.

An investigator should accompany any person in custody during transport in an ambulance when requested by EMS personnel, when it reasonably appears necessary to provide security, when it is necessary for investigative purposes or when so directed by a supervisor.

Members should not provide emergency escort for medical transport or civilian vehicles.

423.5 PERSONS REFUSING EMS CARE

If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, an investigator shall not force that person to receive care or be transported. However, members may assist EMS personnel when EMS personnel determine the person lacks mental capacity to understand the consequences of refusing medical care or to make an informed decision and the lack of immediate medical attention may result in serious bodily injury or the death of the person.

In cases where mental illness may be a factor, the investigator should consider proceeding with a 72-hour treatment and evaluation commitment (5150 commitment) process in accordance with the Mental Illness Commitments Policy.

If an investigator believes that a person who is in custody requires EMS care and the person refuses, he/she should encourage the person to receive medical treatment. The investigator may also consider contacting a family member to help persuade the person to agree to treatment or who may be able to authorize treatment for the person.

If the person who is in custody still refuses, the investigator will require the person to be transported to the nearest medical facility. In such cases, the investigator should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

423.6 MEDICAL ATTENTION RELATED TO USE OF FORCE

Specific guidelines for medical attention for injuries sustained from a use of force may be found in the Use of Force, Handcuffing and Restraints, Control Devices and Techniques, and Conducted Energy Device policies.

423.7 AIR AMBULANCE

Generally, when on-scene, EMS personnel will be responsible for determining whether an air ambulance response should be requested. An air ambulance may be appropriate when there are

Medical Aid and Response

victims with life-threatening injuries or who require specialized treatment (e.g., gunshot wounds, burns, obstetrical cases), and distance or other known delays will affect the EMS response.

Investigators should follow these cautions when near an air ambulance:

- Never approach the aircraft until signaled by the flight crew.
- Always approach the aircraft from the front.
- Avoid the aircraft's tail rotor area.
- Wear eye protection during landing and take-off.
- Do not carry or hold items, such as IV bags, above the head.
- Ensure that no one smokes near the aircraft.

423.8 AUTOMATED EXTERNAL DEFIBRILLATOR (AED) USE

A member may use an AED only after receiving appropriate training from an approved public safety first aid and CPR course (22 CCR 100014; 22 CCR 100017; 22 CCR 100018).

423.8.1 AED USER RESPONSIBILITY

Following use of an AED, the device shall be cleaned and/or decontaminated as required. The electrodes and/or pads will be replaced as recommended by the AED manufacturer.

Any member who uses an AED should contact Dispatch as soon as possible and request response by EMS.

423.8.2 AED REPORTING

Any member using an AED will complete an incident report detailing its use.

423.8.3 AED TRAINING AND MAINTENANCE

The Supervising Investigator should ensure appropriate training and refresher training is provided to members authorized to use an AED. A list of authorized members and training records shall be made available for inspection by the local EMS agency (LEMSA) or EMS authority upon request (22 CCR 100021; 22 CCR 100022; 22 CCR 100029).

Supervising Investigator

423.9 ADMINISTRATION OF OPIOID OVERDOSE MEDICATION

Trained members may administer opioid overdose medication (Civil Code § 1714.22; Business and Professions Code § 4119.9).

423.9.1 OPIOID OVERDOSE MEDICATION USER RESPONSIBILITIES

Members who are qualified to administer opioid overdose medication, such as naloxone, should handle, store and administer the medication consistent with their training. Members should check the medication and associated administration equipment at the beginning of their shift to ensure

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they are serviceable and not expired. Any expired medication or unserviceable administration equipment should be removed from service and given to the Supervising Investigator.

Any member who administers an opioid overdose medication should contact Dispatch as soon as possible and request response by EMS.

423.9.2 DESTRUCTION OF OPIOID OVERDOSE MEDICATION

The Supervising Investigator shall ensure the destruction of any expired opioid overdose medication (Business and Professions Code § 4119.9).

423.9.3 OPIOID OVERDOSE MEDICATION REPORTING

Any member administering opioid overdose medication should detail its use in an appropriate report.

The Supervising Investigator will ensure that he/she obtained enough information to meet applicable state reporting requirements.

423.9.4 OPIOID OVERDOSE MEDICATION RECORD MANAGEMENT

Records regarding acquisition and disposition of opioid overdose medications shall be maintained and retained in accordance with the established records retention schedule and at a minimum of three years from the date the record was created (Business and Professions Code § 4119.9).

423.9.5 OPIOID OVERDOSE MEDICATION TRAINING

The Supervising Investigator should ensure initial and refresher training is provided to members authorized to administer opioid overdose medication. Training should be coordinated with the local health department and comply with the requirements in 22 CCR 100019 and any applicable POST standards (Civil Code § 1714.22).

423.10 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, he/she should be medically cleared prior to booking. If the investigator has reason to believe the arrestee is feigning injury or illness, the investigator should contact a supervisor, who will determine whether medical clearance will be obtained prior to booking.

If the jail or detention facility refuses to accept custody of an arrestee based on medical screening, the investigator should note the name of the facility person refusing to accept custody and the reason for refusal, and should notify a supervisor to determine the appropriate action.

Arrestees who appear to have a serious medical issue should be transported by ambulance. Investigators shall not transport an arrestee to a hospital without a supervisor's approval.

Nothing in this section should delay an investigator from requesting EMS when an arrestee reasonably appears to be exhibiting symptoms that appear to be life threatening, including breathing problems or an altered level of consciousness, or is claiming an illness or injury that reasonably warrants an EMS response in accordance with the investigator's training.

Medical Aid and Response

423.11 FIRST AID TRAINING

The Supervising Investigator should ensure investigators receive initial first aid training within one year of employment and refresher training every two years thereafter (22 CCR 100016; 22 CCR 100022).

Chapter 5 - Traffic Operations

Traffic Function and Responsibility

500.1 PURPOSE AND SCOPE

The ultimate goal of traffic law enforcement is to reduce traffic collisions.

500.2 ENFORCEMENT

Enforcement actions are commensurate with applicable laws and take into account the degree and severity of the violation committed. This bureau does not establish ticket quotas and the number of arrests or citations issued by any investigator shall not be used as the sole criterion for evaluating investigator overall performance (Vehicle Code § 41603). The visibility and quality of an investigator's work effort will be commensurate with the philosophy of this policy. Several methods are effective in the reduction of collisions:

500.2.1 WARNINGS

Warnings or other non-punitive enforcement actions should be considered in each situation and substituted for arrests or citations when circumstances warrant, especially in the case of inadvertent violations.

500.2.2 CITATIONS

Citations may be issued when an investigator believes it is appropriate. It is essential that investigators fully explain the rights and requirements imposed on motorists upon issuance of a citation for a traffic violation. Investigators should provide the following information at a minimum:

- (a) Explanation of the violation or charge
- (b) Court appearance procedure including the optional or mandatory appearance by the motorist
- (c) Notice of whether the motorist can enter a plea and pay the fine by mail or at the court

500.2.3 PHYSICAL ARREST

Physical arrest can be made on a number of criminal traffic offenses outlined in the Vehicle Code or Penal Code. These physical arrest cases usually deal with, but are not limited to:

- (a) Vehicular manslaughter
- (b) Felony and misdemeanor driving under the influence of alcohol/drugs
- (c) Felony or misdemeanor hit-and-run
- (d) Refusal to sign notice to appear
- (e) Any other misdemeanor at the discretion of the investigator, such as reckless driving with extenuating circumstances

Traffic Function and Responsibility

500.3 SUSPENDED OR REVOKED DRIVERS LICENSES

If an investigator contacts a traffic violator for driving on a suspended or revoked license, the investigator may issue a traffic citation pursuant to Vehicle Code § 14601.

If a computer check of a traffic violator's license status reveals a suspended or revoked driver license and the traffic violator still has his or her license in possession, the license shall be seized by the investigator. The investigator shall verbally advise the traffic violator of the suspension or revocation and issue the citation. The investigator will be responsible for filling out the Verbal Notice form (DMV form DL-310) and causing that form and license to be forwarded to the Department of Motor Vehicles.

500.4 HIGH-VISIBILITY VESTS

The Bureau has provided American National Standards Institute (ANSI) Class II high-visibility vests to increase the visibility of bureau members who may be exposed to hazards presented by passing traffic, maneuvering or operating vehicles, machinery and equipment (23 CFR 655.601; 8 CCR 1598).

Although intended primarily for use while performing traffic related assignments, high-visibility vests should be worn at any time increased visibility would improve the safety or efficiency of the member.

500.4.1 REQUIRED USE

Except when working in a potentially adversarial or confrontational role, such as during vehicle stops, high-visibility vests should be worn at any time it is anticipated that an employee will be exposed to the hazards of approaching traffic or construction and recovery equipment. Examples of when high-visibility vests should be worn include traffic control duties, accident investigations, lane closures and while at disaster scenes, or anytime high visibility is desirable. When emergency conditions preclude the immediate donning of the vest, investigators should retrieve and wear the vest as soon as conditions reasonably permit. Use of the vests shall also be mandatory when directed by a supervisor.

Vests maintained in the investigation units may be used any time a plainclothes investigator might benefit from being readily identified as a member of law enforcement.

500.4.2 CARE AND STORAGE OF HIGH-VISIBILITY VESTS

High-visibility vests shall be maintained in the trunk of each investigation unit. Each vest should be stored inside the re-sealable plastic bag provided to protect and maintain the vest in a serviceable condition. Before going into service each employee should ensure a serviceable high-visibility vest is properly stored.

The Supervising Investigator should be promptly notified whenever the supply of vests in the equipment room needs replenishing.

Vehicle Towing and Release

501.1 PURPOSE AND SCOPE

This policy provides the procedures for towing a vehicle by or at the direction of the Amador County District Attorney's Office Bureau of Investigation. Nothing in this policy shall require the Bureau to tow a vehicle.

501.2 STORAGE AND IMPOUNDS

When circumstances permit, for example when towing a vehicle for parking or registration violations, the handling employee should, prior to having the vehicle towed, make a good faith effort to notify the owner of the vehicle that it is subject to removal. This may be accomplished by personal contact, telephone or by leaving a notice attached to the vehicle at least 24 hours prior to removal. If a vehicle presents a hazard, such as being abandoned on the roadway, it may be towed immediately.

The responsibilities of those employees towing, storing or impounding a vehicle are listed below.

501.2.1 VEHICLE STORAGE REPORT

Bureau members requesting towing, storage or impound of a vehicle shall complete CHP Form 180 and accurately record the mileage and a description of property within the vehicle (Vehicle Code § 22850). A copy of the storage report should be given to the tow truck operator and the original shall be submitted to the Records Section as soon as practicable after the vehicle is stored.

501.2.2 REMOVAL FROM TRAFFIC COLLISION SCENES

When a vehicle has been involved in a traffic collision and must be removed from the scene, the investigator shall have the driver select a towing company, if possible, and shall relay the request for the specified towing company to the dispatcher. When there is no preferred company requested, a company will be selected from the rotational list of towing companies in Dispatch.

If the owner is incapacitated, or for any reason it is necessary for the Bureau to assume responsibility for a vehicle involved in a collision, the investigator shall request the dispatcher to call the official towing garage for the County of Amador County. The investigator will then store the vehicle using a CHP Form 180.

501.2.3 STORAGE AT ARREST SCENES

Whenever a person in charge or in control of a vehicle is arrested, it is the policy of this bureau to provide reasonable safekeeping by storing the arrestee's vehicle subject to the exceptions described below. The vehicle, however, shall be stored whenever it is needed for the furtherance of the investigation or prosecution of the case, or when the community caretaker doctrine would reasonably suggest that the vehicle should be stored (e.g., traffic hazard, high-crime area).

The following are examples of situations where consideration should be given to leaving a vehicle at the scene in lieu of storing, provided the vehicle can be lawfully parked and left in a reasonably secured and safe condition:

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- Traffic-related warrant arrest.
- Situations where the vehicle was not used to further the offense for which the driver was arrested.
- Whenever the licensed owner of the vehicle is present, willing, and able to take control of any vehicle not involved in criminal activity.
- Whenever the vehicle otherwise does not need to be stored and the owner requests that it be left at the scene. In such cases, the owner shall be informed that the Bureau will not be responsible for theft or damages.

501.2.4 DRIVING A NON-CITY VEHICLE

Vehicles which have been towed by or at the direction of the Bureau should not be driven by district attorney's office personnel unless it is necessary to move a vehicle a short distance to eliminate a hazard, prevent the obstruction of a fire hydrant or to comply with posted signs.

501.3 VEHICLE INVENTORY

All property in a stored or impounded vehicle shall be inventoried and listed on the vehicle storage form. This includes the trunk and any compartments or containers, even if closed and/or locked. Members conducting inventory searches should be as thorough and accurate as practical in preparing an itemized inventory. These inventory procedures are for the purpose of protecting an owner's property while in district attorney's office custody, to provide for the safety of investigators, and to protect the Bureau against fraudulent claims of lost, stolen, or damaged property.

501.4 SECURITY OF VEHICLES AND PROPERTY

Unless it would cause an unreasonable delay in the completion of a vehicle impound/storage or create an issue of officer safety, investigators should make reasonable accommodations to permit a driver/owner to retrieve small items of value or personal need (e.g., cash, jewelry, cell phone, prescriptions) that are not considered evidence or contraband.

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, personnel conducting the search shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

501.5 RELEASE OF VEHICLE

The Bureau will maintain a listed, 24-hour telephone number to provide information regarding impoundment of vehicles and the right of the registered owner to request a storage hearing. Releases for towed vehicles will be made available during regular, non-emergency business hours (Vehicle Code § 14602.6).

- (a) Vehicles removed pursuant to Vehicle Code § 22850 shall be released after proof of current registration is provided by the owner or the person in control of the vehicle and after all applicable fees are paid (Vehicle Code § 22850.3; Vehicle Code § 22850.5).
- (b) Vehicles removed that require payment of parking fines or proof of valid driver's license shall only be released upon presentation of proof of compliance, proof of payment,

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completion of affidavit, and payment of applicable fees related to the removal (Vehicle Code § 22651 et seq., Vehicle Code § 22652 et seq., Vehicle Code § 22850.3; Vehicle Code § 22850.5).

- (c) A vehicle removed pursuant to Vehicle Code § 14602.6(a) shall be released to the registered owner or his/her agent with proof of current registration, proof of a valid driver's license, and applicable fees paid prior to the end of the 30-day impoundment period under any of the following circumstances:
1. The vehicle was stolen.
 2. If the driver reinstates his/her driver's license or acquires a license and provides proof of proper insurance.
 3. Any other circumstance as set forth in Vehicle Code § 14602.6.
 4. When there is no remaining community caretaking need to continue impound of the vehicle or the continued impound would not otherwise comply with the Fourth Amendment.
- (d) An autonomous vehicle removed under authority of Vehicle Code § 22651(o)(1)(D) shall be released to the registered owner or person in control of the autonomous vehicle if the requirements of Vehicle Code § 22651(o)(3)(B) are met.

Personnel whose duties include releasing towed vehicles should consult the Vehicle Code under which the vehicle was towed or impounded for any specific requirements prior to release.

Employees who suspect that a vehicle was impounded in error should promptly advise a supervisor. Supervisors should approve, when appropriate, the release of the vehicle without requiring the registered owner or his/her agent to request a hearing, as described in the Vehicle Impound Hearings Policy.

Vehicle Impound Hearings

502.1 PURPOSE AND SCOPE

This policy establishes a procedure for the requirement to provide vehicle storage or impound hearings pursuant to Vehicle Code § 22852.

502.2 STORED OR IMPOUND HEARING

When a vehicle is stored or impounded by any member of the Amador County District Attorney's Office Bureau of Investigation, a hearing will be conducted upon the request of the registered or legal owner of the vehicle or his/her agent (Vehicle Code § 22650(a); Vehicle Code § 22852(a)).

The hearing shall be conducted within 48 hours of the request, excluding weekends and holidays. The hearing officer must be a person other than the person who directed the storage or impound of the vehicle (Vehicle Code § 22852(c)).

502.2.1 HEARING PROCEDURES

The vehicle storage hearing is an informal process to evaluate the validity of an order to store or impound a vehicle. The employee who caused the storage or removal of the vehicle does not need to be present for this hearing.

All requests for a hearing on a stored or impounded vehicle shall be submitted in person, in writing or by telephone within 10 days of the date appearing on the notice (Vehicle Code § 22852(b)). The Chief Investigator or his/her designee will generally serve as the hearing officer. The person requesting the hearing may record the hearing at his/her own expense.

The failure of either the registered or legal owner or interested person or his/her agent to request a hearing in a timely manner or to attend a scheduled hearing shall be considered a waiver of and satisfaction of the post-storage hearing requirement (Vehicle Code § 22851.3(e)(2); Vehicle Code § 22852(d)).

Any relevant evidence may be submitted and reviewed by the hearing officer to determine if reasonable grounds have been established for the storage or impound of the vehicle. The initial burden of proof established by a preponderance of the evidence that the storage/impound was based on probable cause rests with the Bureau.

After consideration of all information, the hearing officer shall determine the validity of the storage or impound of the vehicle in question and then render a decision. The hearing officer shall also consider any mitigating circumstances attendant to the storage that reasonably would warrant the release of the vehicle or a modification or reduction of the period the vehicle is impounded (Vehicle Code § 14602.6(b); Vehicle Code § 14602.8(b)).

Aside from those mitigating circumstances enumerated in the Vehicle Code, the registered owner's lack of actual knowledge that the driver to whom the vehicle was loaned was not validly licensed may constitute a mitigating circumstance under Vehicle Code § 14602.6(b) or 14602.8(b), warranting release of the vehicle. This mitigating circumstance exception is not limited to situations

Vehicle Impound Hearings

where the owner made a reasonable inquiry as to the licensed status of the driver before lending the vehicle.

The legislative intent and this bureau's policy is to prevent unlicensed driving pursuant to Vehicle Code §14602.6. If this purpose is not furthered by the continued impoundment of a vehicle, release is most often appropriate.

- (a) If a decision is made that reasonable grounds for storage or impound have been established, the hearing officer shall advise the inquiring party of the decision and that the inquiring party may pursue further civil remedies if desired.
 - 1. If mitigating circumstances are found to be relevant, the hearing officer shall make reasonable adjustments to the impound period, storage or assessment of fees as warranted.
- (b) If a decision is made that reasonable grounds for storage or impound have not been established or sufficient mitigating circumstances exist, the vehicle in storage shall be released immediately. Towing and storage fees will be paid at the Bureau's expense (Vehicle Code § 22852(e)).
- (c) If a decision is made that reasonable grounds for storage have not been established or sufficient mitigating circumstances exist, and the vehicle has been released with fees having been paid, the receipt for such fees will be forwarded with a letter to the Bureau Chief. The hearing officer will recommend to the Bureau Chief that the fees paid by the registered or legal owner of the vehicle in question or their agent be reimbursed by the District Attorney's Office.

Impaired Driving

503.1 PURPOSE AND SCOPE

This policy provides guidance to those bureau members who may play a role in the detection and investigation of driving under the influence (DUI).

503.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation is committed to the safety of the roadways and the community and will pursue fair but aggressive enforcement of California's impaired driving laws.

503.3 INVESTIGATIONS

When possible, investigators should refer DUI investigations to the CHP, or the jurisdiction in which the violation is observed. Investigators should not enforce DUI laws to the exclusion of their other duties unless specifically assigned to DUI enforcement. If called upon, all investigators are expected to enforce these laws with due diligence.

Any DUI investigation will be documented using standard RIMS reportforms. Information that should be documented includes, at a minimum:

- (a) The field sobriety tests (FSTs) administered and the results.
- (b) The investigator's observations that indicate impairment on the part of the individual, and the investigator's health-related inquiries that may help to identify any serious health concerns (e.g., diabetic shock).
- (c) Sources of additional information (e.g., reporting party, witnesses) and their observations.
- (d) Information about any audio and/or video recording of the individual's driving or subsequent actions.
- (e) The location and time frame of the individual's vehicle operation and how this was determined.
- (f) Any prior related convictions in California or another jurisdiction.

503.4 FIELD TESTS

Investigators should use standardized FSTs and any approved alternate tests when investigating violations of DUI laws.

503.5 CHEMICAL TESTS

A person implies consent to a chemical test or tests, and to providing the associated chemical sample, under any of the following (Vehicle Code § 23612):

- (a) The person is arrested for driving a vehicle while under the influence, pursuant to Vehicle Code § 23152.

Impaired Driving

- (b) The person is under 21 years of age and is arrested by an investigator having reasonable cause to believe that the person's blood alcohol content is 0.05 or more (Vehicle Code § 23140).
- (c) The person is under 21 years of age and detained by an investigator having reasonable cause to believe that the person was driving a vehicle while having a blood alcohol content of 0.01 or more (Vehicle Code § 23136).
- (d) The person was operating a vehicle while under the influence and proximately caused bodily injury to another person (Vehicle Code § 23153).

If a person withdraws this implied consent, or is unable to withdraw consent (e.g., the person is unconscious), the investigator should consider implied consent revoked and proceed as though the person has refused to provide a chemical sample.

503.5.1 STATUTORY NOTIFICATIONS

Investigators requesting that a person submit to chemical testing shall provide the person with the mandatory warning pursuant to Vehicle Code § 23612(a)(1)(D) and Vehicle Code § 23612(a)(4).

503.5.2 PRELIMINARY ALCOHOL SCREENING

If available, and trained in the use of, investigators may use or request a preliminary alcohol screening (PAS) test to assist in establishing reasonable cause to believe a person is DUI. The investigator shall advise the person that the PAS test is being requested to assist in determining whether the person is under the influence of alcohol or drugs, or a combination of the two. Unless the person is under the age of 21, he/she shall be advised that the PAS test is voluntary. The investigator shall also advise the person that submitting to a PAS test does not satisfy his/her obligation to submit to a chemical test as otherwise required by law (Vehicle Code § 23612).

503.5.3 PRELIMINARY ALCOHOL SCREENING FOR A PERSON UNDER AGE 21

If an investigator lawfully detains a person under 21 years of age who is driving a motor vehicle and the investigator has reasonable cause to believe that the person has a blood alcohol content of 0.01 or more, the investigator shall request that the person take a PAS test to determine the presence of alcohol in the person, if a PAS test device is immediately available. If a PAS test device is not immediately available, the investigator may request the person to submit to chemical testing of his/her blood, breath or urine, conducted pursuant to Vehicle Code § 23612 (Vehicle Code § 13388).

If the person refuses to take or fails to complete the PAS test or other chemical test, or if the result of either test reveals a blood alcohol content of 0.01 or more, the investigator shall proceed to serve the person with a notice of order of suspension pursuant to this policy (Vehicle Code § 13388).

503.5.4 CHOICE OF TESTS

Investigators shall respect a viable choice of chemical test made by an arrestee, as provided for by law (e.g., breath will not be acceptable for suspected narcotics influence).

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A person arrested for DUI has the choice of whether the test is of his/her blood or breath, and the investigator shall advise the person that he/she has that choice. If the person arrested either is incapable, or states that he/she is incapable, of completing the chosen test, the person shall submit to the remaining test.

If the person chooses to submit to a breath test and there is reasonable cause to believe that the person is under the influence of a drug or the combined influence of alcohol and any drug, the investigator may also request that the person submit to a blood test. If the person is incapable of completing a blood test, the person shall submit to and complete a urine test (Vehicle Code § 23612(a)(2)(C)).

503.5.5 BREATH SAMPLES

Investigators should ensure that the device used for the collection and analysis of a breath sample has been properly serviced and tested, and that a record of such service and testing has been properly maintained.

Investigators obtaining a breath sample should monitor the device for any sign of malfunction. Any anomalies or equipment failures should be noted in the appropriate report.

When the arrested person chooses a breath test, the handling investigator shall advise the person that the breath-testing equipment does not retain a sample, and the person may, if desired, provide a blood or urine specimen, which will be retained to facilitate subsequent verification testing (Vehicle Code § 23614).

The investigator should also require the person to submit to a blood test if the investigator has a clear indication that a blood test will reveal evidence of any drug or the combined influence of an alcoholic beverage and any drug. Evidence of the investigator's belief shall be included in the investigator's report (Vehicle Code § 23612(a)(2)(C)).

503.5.6 BLOOD SAMPLES

Only persons authorized by law to draw blood shall collect blood samples (Vehicle Code § 23158). The blood draw should be witnessed by the assigned investigator. No investigator, even if properly certified, should perform this task.

Investigators should inform an arrestee that if he/she chooses to provide a blood sample, a separate sample can be collected for alternate testing. Unless medical personnel object, two samples should be collected and retained as evidence, so long as only one puncture is required.

The blood sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

If an arrestee cannot submit to a blood draw because he/she has a bleeding disorder or has taken medication that inhibits coagulation, he/she shall not be required to take a blood test. Such inability to take a blood test should not be considered a refusal. However, that arrestee may be required to complete another available and viable test.

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503.5.7 URINE SAMPLES

If a urine test will be performed, the arrestee should be promptly transported to the appropriate testing site. The investigator shall follow any directions accompanying the urine evidence collection kit.

Urine samples shall be collected and witnessed by an investigator or jail staff member of the same sex as the individual giving the sample. The arrestee should be allowed sufficient privacy to maintain his/her dignity, to the extent possible, while still ensuring the accuracy of the sample (Vehicle Code § 23158(i)).

The sample shall be packaged, marked, handled, stored and transported as required by the testing facility.

503.6 REFUSALS

When an arrestee refuses to provide a viable chemical sample, investigators should:

- (a) Advise the arrestee of the requirement to provide a sample (Vehicle Code § 23612).
- (b) Audio- and/or video-record the admonishment when it is practicable.
- (c) Document the refusal in the appropriate report.

503.6.1 STATUTORY NOTIFICATIONS UPON REFUSAL

Upon refusal to submit to a chemical test as required by law, investigators shall personally serve the notice of order of suspension upon the arrestee and take possession of any state-issued license to operate a motor vehicle that is held by that individual (Vehicle Code § 23612(e); Vehicle Code § 23612(f)).

503.6.2 BLOOD SAMPLE WITHOUT CONSENT

A blood sample may be obtained from a person who refuses a chemical test when any of the following conditions exist:

- (a) A search warrant has been obtained (Penal Code § 1524).
- (b) The investigator can articulate that exigent circumstances exist. Exigency does not exist solely because of the short time period associated with the natural dissipation of alcohol or controlled or prohibited substances in the person's bloodstream. Exigency can be established by the existence of special facts such as a lengthy time delay in obtaining a blood sample due to an accident investigation or medical treatment of the person.

503.6.3 FORCED BLOOD SAMPLE

If an arrestee indicates by word or action that he/she will physically resist a blood draw, the investigator should request a supervisor to respond.

The responding supervisor should:

- (a) Evaluate whether using force to obtain a blood sample is appropriate under the circumstances.

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- (b) Ensure that all attempts to obtain a blood sample through force cease if the person agrees to, and completes a viable form of testing in a timely manner.
- (c) Advise the person of his/her duty to provide a sample (even if this advisement was previously done by another investigator) and attempt to persuade the individual to submit to such a sample without physical resistance.
 - 1. This dialogue should be recorded on audio and/or video if practicable.
- (d) Ensure that the blood sample is taken in a medically approved manner.
- (e) Ensure the forced blood draw is recorded on audio and/or video when practicable.
- (f) Monitor and ensure that the type and level of force applied appears reasonable under the circumstances:
 - 1. Unless otherwise provided in a warrant, force should generally be limited to handcuffing or similar restraint methods.
 - 2. In misdemeanor cases, if the arrestee becomes violent or more resistant, no additional force will be used and a refusal should be noted in the report.
 - 3. In felony cases, force which reasonably appears necessary to overcome the resistance to the blood draw may be permitted.
- (g) Ensure the use of force and methods used to accomplish the collection of the blood sample are documented in the related report.

If a supervisor is unavailable, investigators are expected to use sound judgment and perform as a responding supervisor, as set forth above.

503.7 ARREST AND INVESTIGATION

503.7.1 WARRANTLESS ARREST

In addition to the arrest authority granted to investigators pursuant to Penal Code § 836, an investigator may make a warrantless arrest of a person that the investigator has reasonable cause to believe has been driving under the influence of an alcoholic beverage or any drug, or under the combined influence of the same when (Vehicle Code § 40300.5):

- (a) The person is involved in a traffic accident.
- (b) The person is observed in or about a vehicle that is obstructing the roadway.
- (c) The person will not be apprehended unless immediately arrested.
- (d) The person may cause injury to him/herself or damage property unless immediately arrested.
- (e) The person may destroy or conceal evidence of a crime unless immediately arrested.

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503.7.2 INVESTIGATOR RESPONSIBILITIES

The investigator serving the arrested person with a notice of an order of suspension shall immediately (Vehicle Code § 23612):

- (a) Forward a copy of the completed notice of suspension or revocation form and any confiscated driver's license to the Department of Motor Vehicles (DMV).
- (b) Forward a sworn report to DMV that contains the required information in Vehicle Code § 13380.
- (c) Forward the results to the appropriate forensic laboratory if the person submitted to a blood or urine test.

503.8 ADMINISTRATIVE HEARINGS

The Legal Secretary Supervisor will ensure that all appropriate reports and documents related to administrative license suspensions are reviewed and forwarded to DMV.

Any investigator who receives notice of required attendance to an administrative license suspension hearing should promptly notify the prosecuting attorney.

An investigator called to testify at an administrative hearing should document the hearing date and DMV file number in a supplemental report. Specific details of the hearing generally should not be included in the report unless errors, additional evidence or witnesses are identified.

503.8 TRAINING

The Supervising Investigator should ensure that investigators participating in the enforcement of DUI laws receive regular training. Training should include, at minimum, current laws on impaired driving, investigative techniques and rules of evidence pertaining to DUI investigations. The Supervising Investigator should confer with the prosecuting attorney's office and update training topics as needed.

Disabled Vehicles

504.1 PURPOSE AND SCOPE

Vehicle Code § 20018 provides that all law enforcement agencies having responsibility for traffic enforcement may develop and adopt a written policy to provide assistance to motorists in disabled vehicles within their primary jurisdiction.

504.2 INVESTIGATOR RESPONSIBILITY

When an on-duty investigator observes a disabled vehicle on the roadway, the investigator should make a reasonable effort to provide assistance. If that investigator is assigned to a call of higher priority, the dispatcher should be advised of the location of the disabled vehicle and the need for assistance.

504.3 EXTENT OF ASSISTANCE

In most cases, a disabled motorist will require assistance. After arrangements for assistance are made, continued involvement by bureau personnel will be contingent on the time of day, the location, the availability of bureau resources, and the vulnerability of the disabled motorist.

504.3.1 MECHANICAL REPAIRS

Bureau personnel shall not make mechanical repairs to a disabled vehicle. The use of push bumpers to relocate vehicles to a position of safety is not considered a mechanical repair.

504.3.2 RELOCATION OF DISABLED VEHICLES

The relocation of disabled vehicles by members of this bureau by pushing or pulling a vehicle should only occur when the conditions reasonably indicate that immediate movement is necessary to reduce a hazard presented by the disabled vehicle.

504.3.3 RELOCATION OF DISABLED MOTORIST

The relocation of a disabled motorist should only occur with the person's consent and should be suggested when conditions reasonably indicate that immediate movement is necessary to mitigate a potential hazard. The bureau member may stay with the disabled motorist or transport him/her to a safe area to await pickup.

504.4 PUBLIC ACCESS TO THIS POLICY

This written policy is available upon request.

Chapter 6 - Investigation Operations

Investigation and Prosecution

600.1 PURPOSE AND SCOPE

The purpose of this policy is to set guidelines and requirements pertaining to the handling and disposition of criminal investigations.

600.2 POLICY

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

600.3 INITIAL INVESTIGATION

600.3.1 INVESTIGATOR RESPONSIBILITIES

An investigator responsible for an initial investigation shall complete no less than the following:

- (a) Make a preliminary determination of whether a crime has been committed by completing, at a minimum:
 - 1. An initial statement from any witnesses or complainants.
 - 2. A cursory examination for evidence.
- (b) If information indicates a crime has occurred, the investigator shall:
 - (a) Preserve the scene and any evidence as required to complete the initial and follow-up investigation.
 - (b) Determine if additional investigative resources (e.g., investigators or scene processing) are necessary and request assistance as required.
 - (c) If assistance is warranted, or if the incident is not routine, notify a supervisor.
 - (d) Make reasonable attempts to locate, identify and interview all available victims, complainants, witnesses and suspects.
 - (e) Collect any evidence.
 - (f) Take any appropriate law enforcement action.
 - (g) Complete and submit the appropriate reports and documentation.
- (c) If the preliminary determination is that no crime occurred, determine what other action may be necessary, what other resources may be available, and advise the informant or complainant of this information.

600.3.2 NON-SWORN MEMBER RESPONSIBILITIES

A non-sworn member assigned to any preliminary investigation is responsible for all investigative steps, except making any attempt to locate, contact or interview a suspect face-to-face or take any enforcement action. Should an initial investigation indicate that those steps are required, the assistance of an investigator shall be requested.

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600.4 CUSTODIAL INTERROGATION REQUIREMENTS

Suspects who are in custody and subjected to an interrogation shall be given the *Miranda* warning, unless an exception applies. Interview or interrogation of a juvenile shall be in accordance with the Temporary Custody of Juveniles Policy.

600.4.1 AUDIO/VIDEO RECORDINGS

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

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

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

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

600.4.2 MANDATORY RECORDING OF ADULTS

Any custodial interrogation of an adult who is suspected of having committed any murder shall be recorded in its entirety. The recording should be video with audio if reasonably feasible (Penal Code § 859.5).

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

- (a) Recording is not feasible because of exigent circumstances that are later documented in a report.
- (b) The suspect refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.
- (c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.
- (d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

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- (e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an investigator, the individual being interrogated or another individual. Such circumstances shall be documented in a report.
- (f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.
- (g) The questions are part of a routine processing or booking, and are not an interrogation.
- (h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

The Bureau shall maintain an original or an exact copy of the recording until a conviction relating to the interrogation is final and all appeals are exhausted or prosecution is barred by law (Penal Code § 859.5).

600.5 DISCONTINUATION OF INVESTIGATIONS

The investigation of a criminal case or efforts to seek prosecution should only be discontinued if one of the following applies:

- (a) All reasonable investigative efforts have been exhausted, no reasonable belief that the person who committed the crime can be identified, and the incident has been documented appropriately.
- (b) The perpetrator of a misdemeanor has been identified and a warning is the most appropriate disposition.
 - 1. In these cases, the investigator shall document that the person was warned and why prosecution was not sought.
 - 2. Warnings shall not be given for felony offenses or other offenses identified in this policy or by law that require an arrest or submission of a case to a prosecutor.
- (c) The case has been submitted to the appropriate prosecutor but no charges have been filed. Further investigation is not reasonable nor has the prosecutor requested further investigation.
- (d) The case has been submitted to the appropriate prosecutor, charges have been filed, and further investigation is not reasonable, warranted, or requested, and there is no need to take the suspect into custody.
- (e) Suspects have been arrested, there are no other suspects, and further investigation is either not warranted, or requested.
- (f) Investigation has proven that a crime was not committed (see the Sexual Assault Investigations Policy for special considerations in these cases).

The Domestic Violence, Child Abuse Sexual Assault Investigations, and Senior and Disability Victimization policies may also require an arrest or submittal of a case to a prosecutor.

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600.6 COMPUTERS AND DIGITAL EVIDENCE

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

600.7 INVESTIGATIVE USE OF SOCIAL MEDIA AND INTERNET SOURCES

Use of social media and any other Internet source to access information for the purpose of criminal investigation shall comply with applicable laws and policies regarding privacy, civil rights and civil liberties. Information gathered via the Internet should only be accessed by members while on-duty and for purposes related to the mission of this bureau. If a member encounters information relevant to a criminal investigation while off-duty or while using 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 bureau equipment.

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

600.7.1 ACCESS RESTRICTIONS

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

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

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

600.7.2 INTERCEPTING ELECTRONIC COMMUNICATION

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

600.8 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 through the use of the technology.
- (b) A usage and privacy policy is developed that includes:

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

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

Sexual Assault Investigations

601.1 PURPOSE AND SCOPE

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

Mandatory notifications requirements are addressed in the Child Abuse and Senior and Disability Victimization policies.

601.1.1 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 forensic examiners (SAFEs) or 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.

601.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation that its investigators, when investigating 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.

601.3 QUALIFIED INVESTIGATORS

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

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

601.4 REPORTING

In all reported or suspected cases of sexual assault, a report should be written and investigated. This includes incidents in which the allegations appear unfounded or unsubstantiated.

Sexual Assault Investigations

601.5 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call to Dispatch, 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.

An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

601.5.1 VICTIM RIGHTS

Whenever there is an alleged sexual assault, the assigned investigator shall accomplish the following:

- (a) Advise the victim in writing of the right to have a victim advocate and a support person of the victim's choosing present at any interview or contact by law enforcement, any other rights of a sexual assault victim pursuant to Penal Code § 680.2, and the right to have a person of the same or opposite gender present in the room during any interview with a law enforcement official unless no such person is reasonably available (Penal Code § 679.04).
- (b) If the victim is transported to a hospital for any medical evidentiary or physical examination, the investigator shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2).
 1. The investigator shall not discourage a victim from receiving a medical evidentiary or physical examination (Penal Code § 679.04).
 2. A support person may be excluded from the examination by the investigator or the medical provider if his/her presence would be detrimental to the purpose of the examination (Penal Code § 264.2).

601.5.2 VICTIM CONFIDENTIALITY

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

Sexual Assault Investigations

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

601.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately.

601.6.1 COLLECTION AND TESTING REQUIREMENTS

Members investigating a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). SAFE kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned investigator shall ensure that an information profile for the SAFE kit evidence has been created in the California Department of Justice (DOJ) SAFE-T database within 120 days of collection and should further ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (Penal Code § 680.3).

If the assigned investigator determines that a SAFE kit submitted to a private laboratory for analysis has not been tested within 120 days after submission, the investigator shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned investigator shall continue to update the status every 120 days thereafter until the evidence has been analyzed or the statute of limitations has run (Penal Code § 680.3).

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

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

Sexual Assault Investigations

601.6.2 DNA TEST RESULTS

Investigators should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

- (a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).
 - 1. Although such information may be communicated orally, the assigned investigator should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
 - 2. Absent a written request, no member of this bureau is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.
- (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 SAFE 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 DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.
 - 3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank 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.

601.6.3 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT

The Chief Investigator should make California standardized sexual assault forensic medical evidence (SAFE) kits available to members who may investigate sexual assault cases. Members investigating a sexual assault should use these SAFE kits when appropriate and follow related usage guidelines issued by the California Clinical Forensic Medical Training Center (Penal Code § 13823.14).

Sexual Assault Investigations

601.7 DISPOSITION OF CASES

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Supervising Investigator..

Classification of a sexual assault case as unfounded requires the Supervising Investigator to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

601.8 CASE REVIEW

The Chief Investigator should ensure case dispositions are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief Investigator.

601.9 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 District Attorney 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.

601.10 TRAINING

Subject to available resources, periodic training should be provided to:

- (a) Members who are first responders. Training should include:
 1. Initial response to sexual assaults.
 2. Legal issues.
 3. Victim advocacy.
 4. Victim's response to trauma.
 5. Proper use and handling of the California standardized SAFE kit (Penal Code § 13823.14).
- (b) Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:
 1. Interviewing sexual assault victims.

Sexual Assault Investigations

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).
6. Techniques for communicating with victims to minimize trauma.

Asset Forfeiture

602.1 PURPOSE AND SCOPE

This policy describes the authority and procedure for the seizure, forfeiture and liquidation of property associated with designated offenses.

602.1.1 DEFINITIONS

Definitions related to this policy include:

Fiscal agent - The person designated by the Chief Investigator to be responsible for securing and maintaining seized assets and distributing any proceeds realized from any forfeiture proceedings. This includes any time the Amador County District Attorney's Office Bureau of Investigation seizes property for forfeiture or when the Amador County District Attorney's Office Bureau of Investigation is acting as the fiscal agent pursuant to a multi-agency agreement.

Forfeiture - The process by which legal ownership of an asset is transferred to a government or other authority.

Forfeiture reviewer - The bureau member assigned by the Chief Investigator who is responsible for reviewing all forfeiture cases and for acting as the liaison between the Bureau and the assigned attorney.

Property subject to forfeiture - The following may be subject to forfeiture:

- (a) Property related to a narcotics offense, which includes (Health and Safety Code § 11470; Health and Safety Code § 11470.1):
 1. Property (not including real property or vehicles) used, or intended for use, as a container for controlled substances, materials to manufacture controlled substances, etc.
 2. Interest in a vehicle (car, boat, airplane, other vehicle) used to facilitate the manufacture, possession for sale or sale of specified quantities of controlled substances.
 3. Money, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance, proceeds traceable to an exchange, etc.
 4. Real property when the owner is convicted of violating Health and Safety Code § 11366, Health and Safety Code § 11366.5 or Health and Safety Code § 11366.6 (drug houses) when the property was not used as a family residence or for other lawful purposes, or property owned by two or more persons, one of whom had no knowledge of its unlawful use.
 5. The expenses of seizing, eradicating, destroying or taking remedial action with respect to any controlled substance or its precursors upon conviction for the unlawful manufacture or cultivation of any controlled substance or its precursors.

Asset Forfeiture

- (b) Property related to criminal profiteering (may include gang crimes), to include (Penal Code § 186.2; Penal Code § 186.3):
 - 1. Any property interest, whether tangible or intangible, acquired through a pattern of criminal profiteering activity.
 - 2. All proceeds acquired through a pattern of criminal profiteering activity, including all things of value that may have been received in exchange for the proceeds immediately derived from the pattern of criminal profiteering activity.

Seizure - The act of law enforcement officials taking property, cash or assets that have been used in connection with or acquired by specified illegal activities.

602.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation recognizes that appropriately applied forfeiture laws are helpful to enforce the law, deter crime and reduce the economic incentive of crime. However, the potential for revenue should never compromise the effective investigation of criminal offenses, officer safety or any person's due process rights.

It is the policy of the Amador County District Attorney's Office Bureau of Investigation that all members, including those assigned to internal or external law enforcement task force operations, shall comply with all state and federal laws pertaining to forfeiture.

602.3 ASSET SEIZURE

Property may be seized for forfeiture as provided in this policy.

602.3.1 PROPERTY SUBJECT TO SEIZURE

The following may be seized upon review and approval of a supervisor and in coordination with the forfeiture reviewer:

- (a) Property subject to forfeiture authorized for seizure under the authority of a search warrant or court order.
- (b) Property subject to forfeiture not authorized for seizure under the authority of a search warrant or court order when any of the following apply (Health and Safety Code § 11471; Health and Safety Code § 11488):
 - 1. The property subject to forfeiture is legally seized incident to an arrest.
 - 2. There is probable cause to believe that the property was used or is intended to be used in a violation of the Uniform Controlled Substances Act and the seizing investigator can articulate a nexus between the property and the controlled substance offense that would lead to the item being property subject for forfeiture.

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Investigators aware of assets that may be forfeitable as a result of criminal profiteering or human trafficking should consider contacting the district attorney regarding a court order to protect the assets (Penal Code § 186.6; Penal Code § 236.6).

Whenever practicable, a search warrant or court order for seizure prior to making a seizure is the preferred method.

A large amount of money standing alone is insufficient to establish the probable cause required to make a seizure.

602.3.2 PROPERTY NOT SUBJECT TO SEIZURE

The following property should not be seized for forfeiture:

- (a) Cash and property that does not meet the forfeiture counsel's current minimum forfeiture thresholds should not be seized.
- (b) Real property is not subject to seizure, absent exigent circumstances, without a court order (Health and Safety Code § 11471).
- (c) A vehicle which may be lawfully driven on the highway if there is a community property interest in the vehicle by a person other than the suspect and the vehicle is the sole vehicle available to the suspect's immediate family (Health and Safety Code § 11470).
- (d) Vehicles, boats or airplanes owned by an "innocent owner," such as a common carrier with no knowledge of the suspected offense (Health and Safety Code § 11490).
- (e) Any property when the associated activity involves the possession of marijuana or related paraphernalia that is permissible under the Control, Regulate and Tax Adult Use of Marijuana Act (Health and Safety Code § 11362.1).

602.4 PROCESSING SEIZED PROPERTY FOR FORFEITURE PROCEEDINGS

When property or cash subject to this policy is seized, the investigator making the seizure should ensure compliance with the following:

- (a) Complete applicable seizure forms and present the appropriate copy to the person from whom the property is seized. If cash or property is seized from more than one person, a separate copy must be provided to each person, specifying the items seized. When property is seized and no one claims an interest in the property, the investigator must leave the copy in the place where the property was found, if it is reasonable to do so.
- (b) Complete and submit a report and original seizure forms within 24 hours of the seizure, if practicable.
- (c) Forward the original seizure forms and related reports to the forfeiture reviewer within two days of seizure.

The investigator will book seized property as evidence with the notation in the comment section of the property form, "Seized Subject to Forfeiture." Property seized subject to forfeiture should

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be booked on a separate property form. No other evidence from the case should be booked on this form.

Photographs should be taken of items seized, particularly cash, jewelry and other valuable items.

Investigators who suspect property may be subject to seizure but are not able to seize the property (e.g., the property is located elsewhere, the whereabouts of the property is unknown, it is real estate, bank accounts, non-tangible assets) should document and forward the information in the appropriate report to the forfeiture reviewer.

602.5 MAINTAINING SEIZED PROPERTY

The Supervising Investigator is responsible for ensuring compliance with the following:

- (a) All property received for forfeiture is reasonably secured and properly stored to prevent waste and preserve its condition.
- (b) All property received for forfeiture is checked to determine if the property has been stolen.
- (c) All property received for forfeiture is retained in the same manner as evidence until forfeiture is finalized or the property is returned to the claimant or the person with an ownership interest.
- (d) Property received for forfeiture is not used unless the forfeiture action has been completed.

602.6 FORFEITURE REVIEWER

The Chief Investigator will appoint an investigator as the forfeiture reviewer. Prior to assuming duties, or as soon as practicable thereafter, the forfeiture reviewer should attend a bureau-approved course on asset forfeiture.

The responsibilities of the forfeiture reviewer include:

- (a) Remaining familiar with forfeiture laws, particularly Health and Safety Code § 11469 et seq. and Penal Code § 186.2 et seq. and the forfeiture policies of the forfeiture counsel.
- (b) Serving as the liaison between the Bureau and the forfeiture counsel and ensuring prompt legal review of all seizures.
- (c) Making reasonable efforts to obtain annual training that includes best practices in pursuing, seizing and tracking forfeitures.
- (d) Ensuring that property seized under state law is not referred or otherwise transferred to a federal agency seeking the property for federal forfeiture as prohibited by Health and Safety Code § 11471.2.
- (e) Ensuring that responsibilities, including the designation of a fiscal agent, are clearly established whenever multiple agencies are cooperating in a forfeiture case.

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- (f) Ensuring that seizure forms are available and appropriate for bureau use. These should include notice forms, a receipt form and a checklist that provides relevant guidance to investigators. The forms should be available in languages appropriate for the region and should contain spaces for:
 - 1. Names and contact information for all relevant persons and law enforcement officers involved.
 - 2. Information as to how ownership or other property interests may have been determined (e.g., verbal claims of ownership, titles, public records).
 - 3. A space for the signature of the person from whom cash or property is being seized.
 - 4. A tear-off portion or copy, which should be given to the person from whom cash or property is being seized, that includes the legal authority for the seizure, information regarding the process to contest the seizure and a detailed description of the items seized.
- (g) Ensuring that investigators who may be involved in asset forfeiture receive training in the proper use of the seizure forms and the forfeiture process. The training should be developed in consultation with the appropriate legal counsel and may be accomplished through traditional classroom education, electronic media, Daily Training Bulletins (DTBs) or Bureau Directives. The training should cover this policy and address any relevant statutory changes and court decisions.
- (h) Reviewing each asset forfeiture case to ensure that:
 - 1. Written documentation of the seizure and the items seized is in the case file.
 - 2. Independent legal review of the circumstances and propriety of the seizure is made in a timely manner.
 - 3. Notice of seizure has been given in a timely manner to those who hold an interest in the seized property (Health and Safety Code § 11488.4).
 - 4. Property is promptly released to those entitled to its return (Health and Safety Code § 11488.2).
 - 5. All changes to forfeiture status are forwarded to any supervisor who initiates a forfeiture case.
 - 6. Any cash received is deposited with the fiscal agent.
 - 7. Assistance with the resolution of ownership claims and the release of property to those entitled is provided.
 - 8. Current minimum forfeiture thresholds are communicated appropriately to investigators.

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9. This policy and any related policies are periodically reviewed and updated to reflect current federal and state statutes and case law.
 - (i) Ensuring that a written plan that enables the Chief Investigator to address any extended absence of the forfeiture reviewer, thereby ensuring that contact information for other law enforcement officers and attorneys who may assist in these matters is available.
 - (j) Ensuring that the process of selling or adding forfeited property to the bureau's regular inventory is in accordance with all applicable laws and consistent with the bureau's use and disposition of similar property.
 - (k) Keeping a manual that details the statutory grounds for forfeitures and bureau procedures related to asset forfeiture, including procedures for prompt notice to interest holders, the expeditious release of seized property, where appropriate, and the prompt resolution of claims of innocent ownership (Heath and Safety Code § 11469).
 - (l) Providing copies of seized business records to the person or business from whom such records were seized, when requested (Heath and Safety Code §11471).
 - (m) Notifying the California Franchise Tax Board when there is reasonable cause to believe that the value of seized property exceeds \$5,000.00 (Health and Safety Code § 11471.5).

Forfeiture proceeds should be maintained in a separate fund or account subject to appropriate accounting control, with regular reviews or audits of all deposits and expenditures.

Forfeiture reporting and expenditures should be completed in the manner prescribed by the law and County financial directives (Health and Safety Code § 11495).

602.7 DISPOSITION OF FORFEITED PROPERTY

Forfeited funds distributed under Health and Safety Code § 11489 et seq. shall only be used for purposes allowed by law, but in no case shall a peace officer's employment or salary depend upon the level of seizures or forfeitures he/she achieves (Heath and Safety Code § 11469).

The Bureau may request a court order so that certain uncontaminated science equipment is relinquished to a school or school district for science classroom education in lieu of destruction (Health and Safety Code § 11473; Health and Safety Code § 11473.5).

602.7.1 RECEIVING EQUITABLE SHARES

When participating in a joint investigation with a federal agency, the Amador County District Attorney's Office Bureau of Investigation shall not receive an equitable share from the federal agency of all or a portion of the forfeiture proceeds absent either a required conviction under Health and Safety Code § 11471.2 or the flight, death or willful failure to appear of the defendant. This does not apply to forfeited cash or negotiable instruments of \$40,000 or more.

Asset Forfeiture

602.8 CLAIM INVESTIGATIONS

An investigation shall be made as to any claimant of a vehicle, boat or airplane whose right, title, interest or lien is on the record in the Department of Motor Vehicles or in an appropriate federal agency. If investigation reveals that any person, other than the registered owner, is the legal owner, and that ownership did not arise subsequent to the date and time of arrest or notification of the forfeiture proceedings or seizure of the vehicle, boat or airplane, notice shall be made to the legal owner at his/her address appearing on the records of the Department of Motor Vehicles or the appropriate federal agency (Health and Safety Code § 11488.4).

Eyewitness Identification

603.1 PURPOSE AND SCOPE

This policy sets forth guidelines to be used when members of this bureau employ eyewitness identification techniques (Penal Code § 859.7).

603.1.1 DEFINITIONS

Definitions related to the policy include:

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

603.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

603.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy.

603.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Supervising Investigator shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide (Penal Code § 859.7):

- (a) The date, time and location of the eyewitness identification procedure.
- (b) The name and identifying information of the witness.

Eyewitness Identification

- (c) The name of the person administering the identification procedure.
- (d) If applicable, the names of all of the individuals present during the identification procedure.
- (e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.
- (f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.
- (g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.
- (h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.
- (i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.
- (j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.
- (k) Any other direction to meet the requirements of Penal Code § 859.7, including direction regarding blind or blinded administrations and filler selection.

The process and related forms should be reviewed at least annually and modified when necessary.

603.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

The eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures. When it is not feasible to make a recording with both audio and visual representations, an audio recording should be made (Penal Code § 859.7).

603.6 DOCUMENTATION

A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the case report.

Eyewitness Identification

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

603.6.1 DOCUMENTATION RELATED TO RECORDINGS

The handling member shall document the reason that a video recording or any other recording of an identification was not obtained (Penal Code § 859.7).

603.6.2 DOCUMENTATION RELATED TO BLIND ADMINISTRATION

If a presentation of a lineup is not conducted using blind administration, the handling member shall document the reason (Penal Code § 859.7).

603.6 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practicable, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness (Penal Code § 859.7). Techniques to achieve this include randomly numbering photographs, shuffling folders, or using a computer program to order the persons in the lineup.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup (Penal Code § 859.7).

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

603.6.1 OTHER SAFEGUARDS

Witnesses should be asked for suspect descriptions as close in time to the incident as possible and before conducting an eyewitness identification. No information concerning a suspect should be given prior to obtaining a statement from the witness describing how certain he/she is of the identification or non-identification. Members should not say anything to a witness that may validate or invalidate an eyewitness' identification. In photographic lineups, writings or information concerning any previous arrest of a suspect shall not be visible to the witness (Penal Code § 859.7).

603.6 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications.

When initiating a field identification, the member should observe the following guidelines:

Eyewitness Identification

- (a) Obtain a complete description of the suspect from the witness.
- (b) Assess whether a witness should be included in a field identification process by considering:
 - 1. The length of time the witness observed the suspect.
 - 2. The distance between the witness and the suspect.
 - 3. Whether the witness could view the suspect's face.
 - 4. The quality of the lighting when the suspect was observed by the witness.
 - 5. Whether there were distracting noises or activity during the observation.
 - 6. Any other circumstances affecting the witness's opportunity to observe the suspect.
 - 7. The length of time that has elapsed since the witness observed the suspect.
- (c) If safe and practicable, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.
- (d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.
- (e) The person who is the subject of the show-up should not be shown to the same witness more than once.
- (f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.
- (g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

Brady Material Disclosure

604.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

604.1.1 DEFINITIONS

Definitions related to this policy include:

Brady information - Information known or possessed by the Amador County District Attorney's Office that is both favorable and material to the current prosecution or defense of a criminal defendant.

604.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Amador County District Attorney's Office Bureau of Investigation will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Bureau will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

604.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Investigators must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If an investigator learns of potentially incriminating or exculpatory information any time after submission of a case, the investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and provided to the prosecutor.

If information is believed to be privileged or confidential (e.g., confidential informant or protected personnel files), the investigator should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If an investigator is unsure whether evidence or facts are material, the investigator should address the issue with a supervisor or a Deputy District Attorney.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the case file.

Brady Material Disclosure

604.4 DISCLOSURE OF PERSONNEL INFORMATION

Whenever it is determined that *Brady* information is located in the personnel file of a member of this bureau who is a material witness in a criminal case, the following procedure shall apply:

- (a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the investigator's personnel file.
- (b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in-camera review by the court.
- (c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.
- (d) The Custodian of Records shall accompany all relevant files during any in-camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.
- (e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
 1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

604.5 INVESTIGATING BRADY ISSUES

If a member of the Bureau receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

604.6 TRAINING

Bureau members should receive periodic training on the requirements of this policy.

Unmanned Aerial System (UAS) Operations

605.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS.

605.1.1 DEFINITIONS

Definitions related to this policy include:

Unmanned Aerial System (UAS) - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

605.2 POLICY

Unmanned aerial systems may be utilized to enhance the bureau's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

605.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

605.4 PROGRAM COORDINATOR

The Chief Investigator will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current.
- Ensuring that all authorized operators and required observers have completed all required FAA and bureau-approved training in the operation, applicable laws, policies and procedures regarding use of the UAS.
- Developing uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents.

Unmanned Aerial System (UAS) Operations

Deployment of a UAS shall require written authorization of the Chief Investigator or the authorized designee, depending on the type of mission.

- Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing an operational protocol governing the deployment and operation of a UAS including, but not limited to, safety oversight, use of visual observers, establishment of lost link procedures and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief Investigator.

605.5 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

UAS operations should only be conducted during daylight hours and a UAS should not be flown over populated areas without FAA approval.

605.6 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.

Unmanned Aerial System (UAS) Operations

- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

605.7 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule.

Warrant Service

606.1 PURPOSE AND SCOPE

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

This policy is intended to be used in conjunction with the Operations Planning and Deconfliction Policy, which has additional guidance on planning and serving high-risk warrants.

This policy is not intended to address the service of search warrants on locations or property already secured or routine field warrant arrests by investigators.

606.2 POLICY

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

606.3 INVESTIGATOR RESPONSIBILITIES

The investigator (see the Operations Planning and Deconfliction Policy) shall review all risk assessment forms with the involved supervisor to determine the risk level of the warrant service.

The investigator will also have the responsibility to coordinate service of those warrants that are categorized as high risk. Deconfliction, risk assessment, operational planning, briefing and debriefing should follow guidelines in the Operations Planning and Deconfliction Policy.

606.4 SEARCH WARRANTS

The investigators will prepare the affidavit and search warrant, consulting with the applicable prosecuting attorney as needed. He/she will also complete the risk assessment form and submit it, along with the warrant affidavit, to the appropriate supervisor for review and classification of risk (see the Operations Planning and Deconfliction Policy).

606.5 ARREST WARRANTS

If an investigator reasonably believes that serving an arrest warrant may pose a higher risk than commonly faced on a daily basis, the investigator should complete the risk assessment form and submit it to the appropriate supervisor and the SWAT Commander for review and classification of risk (see the Operations Planning and Deconfliction Policy).

If the warrant is classified as high risk, service will be coordinated by the SWAT Commander. If the warrant is not classified as high risk, the supervisor should weigh the risk of entry into a residence to make an arrest against other alternatives, such as arresting the person outside the residence where circumstances may pose a lower risk.

Warrant Service

606.6 WARRANT PREPARATION

An investigator who prepares a warrant should ensure the documentation in support of the warrant contains as applicable:

- (a) Probable cause to support the search or arrest, including relevant dates and times to demonstrate timeliness and facts to support any request for nighttime warrant execution.
- (b) A clear explanation of the affiant's training, experience and relevant education.
- (c) Adequately supported opinions, when relevant, that are not left to unsubstantiated conclusions.
- (d) A nexus between the place to be searched and the persons or items central to the investigation. The facts supporting this nexus should be clear and current. For example, the affidavit shall explain why there is probable cause to believe that a particular person is currently residing at a particular location or that the items sought are present at a particular location.
- (e) Full disclosure of known or suspected residents at the involved location and any indication of separate living spaces at the involved location. For example, it should be disclosed that several people may be renting bedrooms at a single location, even if the exact location of the rooms is not known.
- (f) A specific description of the location to be searched, including photographs of the location, if reasonably available.
- (g) A sufficient description of the items to be seized.
- (h) Full disclosure of any known exculpatory information relevant to the warrant application (refer to the Brady Material Disclosure Policy).

606.7 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.

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

- (a) When practicable and when doing so does not cause unreasonable risk, video or photographic documentation is made of the condition of the location prior to execution of a search warrant. The images should include the surrounding area and persons present.
- (b) 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.

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- (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 (see the Child and Dependent Adult Safety Policy).
- (g) A list is made of all items seized and a copy provided to the person in charge of the premises if present or otherwise left in a conspicuous place.
- (h) A copy of the search warrant is left at the location.
- (i) The condition of the property is documented with video recording or photographs after the search.

606.8 DETENTIONS DURING WARRANT SERVICE

Investigators must be sensitive to the safety risks of all persons involved with the service of a warrant. Depending on circumstances and facts present, it may be appropriate to control movements of any or all persons present at a warrant service, including those who may not be the subject of a warrant or suspected in the case. However, investigators must be mindful that only reasonable force may be used and weapons should be displayed no longer than the investigator reasonably believes is necessary (see the Use of Force Policy).

As soon as it can be determined that an individual is not subject to the scope of a warrant and that no further reasonable suspicion or safety concerns exist to justify further detention, the person should be promptly released.

Investigators should, when and to the extent reasonable, accommodate the privacy and personal needs of people who have been detained.

606.9 ACTIONS AFTER WARRANT SERVICE

The investigator shall ensure that all affidavits, warrants, receipts and returns, regardless of any associated cases, are filed with the issuing judge or magistrate as soon as reasonably possible, but in any event no later than any date specified on the warrant.

606.10 OUTSIDE AGENCIES AND CROSS-JURISDICTIONAL WARRANTS

The Chief Investigator or Supervising Investigator 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

Warrant Service

- Rules of engagement
- Asset forfeiture procedures

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

If investigators intend to serve a warrant outside Amador County District Attorney's Office Bureau of Investigation jurisdiction, the Chief Investigator or Supervising Investigator 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 Amador County District Attorney's Office Bureau of Investigation when assisting outside agencies or serving a warrant outside Amador County District Attorney's Office Bureau of Investigation jurisdiction.

606.11 MEDIA ACCESS

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

606.12 TRAINING

The Supervising Investigator should ensure investigators receive periodic training on this policy and associated topics, such as legal issues, warrant preparation, warrant service and reporting requirements.

Operations Planning and Deconfliction

607.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction and execution of high-risk operations.

Additional guidance on planning and serving high-risk warrants is provided in the Warrant Service Policy.

607.1.1 DEFINITIONS

Definitions related to this policy include:

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

607.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to properly plan and carry out high-risk operations, including participation in a regional deconfliction system, in order to provide coordination, enhance the safety of members and the public, decrease the risk of compromising investigations and prevent duplicating efforts.

607.3 OPERATIONS DIRECTOR

The Chief Investigator or Supervising Investigator will designate a member of this bureau to be the operations director.

The operations director will develop and maintain a risk assessment form to assess, plan and coordinate operations. This form should provide a process to identify high-risk operations.

The operations director will review risk assessment forms with involved supervisors to determine whether a particular incident qualifies as a high-risk operation. The director will also have the responsibility for coordinating operations that are categorized as high risk.

607.4 RISK ASSESSMENT

607.4.1 RISK ASSESSMENT FORM PREPARATION

Investigators assigned as operational leads for any operation that may qualify as a high-risk operation shall complete a risk assessment form.

When preparing the form, the investigator should query all relevant and reasonably available intelligence resources for information about the subject of investigation, others who may be present and the involved location. These sources may include regional intelligence and criminal justice databases, target deconfliction systems, firearm records, commercial databases and property records. Where appropriate, the investigator should also submit information to these resources.

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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).

607.4.2 RISK ASSESSMENT REVIEW

Investigators will present the risk assessment form and other relevant documents (such as copies of search warrants and affidavits and arrest warrants) to their supervisor and the operations director.

The supervisor and operations director shall confer and determine the level of risk. Supervisors should take reasonable actions if there is a change in circumstances that elevates the risks associated with the operation.

607.4.3 HIGH-RISK OPERATIONS

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

- (a) Determine what resources will be needed at the location, and contact and/or place on standby any of the following appropriate and available resources:
 - (a) (SWAT)
 - (b) Additional personnel
 - (c) Outside agency assistance
 - (d) Special equipment
 - (e) Medical personnel

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- (f) Persons trained in negotiation
 - (g) Additional surveillance
 - (h) Canines
 - (i) Analytical personnel to assist with cataloguing seizures
 - (j) Forensic specialists
 - (k) Specialized mapping for larger or complex locations
- (b) Contact the appropriate bureau members or other agencies as warranted to begin preparation.
 - (c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.
 - (d) Coordinate the actual operation.

607.5 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or law enforcement operations and alert participating agencies when others are planning or conducting operations in close proximity or time or are investigating the same individuals, groups or locations.

The investigator who is the operations lead shall ensure the subject of investigation and operations information have been entered in an applicable deconfliction system to determine if there is reported conflicting activity. This should occur as early in the process as practicable, but no later than two hours prior to the commencement of the operation. The investigator should also enter relevant updated information when it is received.

If any conflict is discovered, the investigator will contact the involved jurisdiction and resolve the potential conflict before proceeding.

607.6 OPERATIONS PLAN

The operations director should ensure that a written operations plan is developed for all high-risk operations. Plans should also be considered for other operations that would benefit from having a formal plan.

The plan should address such issues as:

- (a) Operation goals, objectives, and strategies.
- (b) Operation location and people:
 - 1. The subject of investigation (e.g., history of weapon possession/use, known mental illness issues, known drug use, threats against police, gang affiliation, criminal history)
 - 2. The location (e.g., fortification, booby traps, reinforced doors/windows, surveillance cameras and/or lookouts, number/type of buildings, geographic and perimeter barriers, the number and types of weapons likely to be present,

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- information that suggests the presence of explosives, chemicals or other hazardous materials, the potential for multiple dwellings or living spaces, availability of keys/door combinations), including aerial photos, if available, and maps of neighboring yards and obstacles, diagrams and other visual aids
3. Other environmental factors (e.g., nearby venues such as schools and day care centers, proximity of adjacent homes or other occupied buildings, anticipated pedestrian and vehicle traffic at the time of service)
 4. Identification of other people who may be present in or around the operation, such as other criminal suspects, innocent third parties, and children
- (c) Information from the risk assessment form by attaching a completed copy in the operational plan.
1. The volume or complexity of the information may indicate that the plan includes a synopsis of the information contained on the risk assessment form to ensure clarity and highlighting of critical information.
- (d) Participants and their roles.
1. An adequate number of uniformed investigators should be included in the operation team to provide reasonable notice of a legitimate law enforcement operation.
 2. How all participants will be identified as law enforcement.
- (e) Whether deconfliction submissions are current and all involved individuals, groups, and locations have been deconflicted to the extent reasonably practicable.
- (f) Identification of all communications channels and call-signs.
- (g) Use of force issues.
- (h) Contingencies for handling medical emergencies (e.g., services available at the location, closest hospital, closest trauma center).
- (i) Plans for detaining people who are not under arrest.
- (j) Contingencies for handling children, dependent adults, animals, and other people who might be at the location in accordance with the Child Abuse, Senior and Disability Victimization, Child and Dependent Adult Safety, and Animal Control policies.
- (k) Communications plan.
- (l) Responsibilities for writing, collecting, reviewing, and approving reports.

607.6.1 OPERATIONS PLAN RETENTION

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

607.7 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

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responsibilities and ask questions or seek clarification as needed. Anyone who is not present at the briefing should not respond to the operation location without specific supervisory approval.

- (a) The briefing should include a verbal review of plan elements, using visual aids, to enhance the participants' understanding of the operations plan.
- (b) All participants should be provided a copy of the operations plan and search warrant, if applicable. Participating personnel should be directed to read the search warrant and initial a copy that is retained with the operation plan. Any items to be seized should be identified at the briefing.
- (c) The operations director shall ensure that all participants are visually identifiable as law enforcement officers.
 - 1. Exceptions may be made by the operations director for investigators who are conducting surveillance or working under cover. However, those members exempt from visual identification should be able to transition to a visible law enforcement indicator at the time of enforcement actions, such as entries or arrests, if necessary.
- (d) The briefing should include details of the communications plan.
 - 1. It is the responsibility of the operations director to ensure that Dispatch is notified of the time and location of the operation, and to provide a copy of the operation plan prior to investigators arriving at the location.
 - 2. If the radio channel needs to be monitored by Dispatch, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operation plan.
 - 3. The briefing should include a communications check to ensure that all participants are able to communicate with the available equipment on the designated radio channel.

607.8 SWAT PARTICIPATION

If the operations director determines that SWAT participation is appropriate, the director and the SWAT supervisor shall work together to develop a written plan. The SWAT supervisor shall assume operational control until all persons at the scene are appropriately detained and it is safe to begin a search. When this occurs, the SWAT supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the investigators present.

607.9 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief Investigator. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

607.10 OPERATIONS DEBRIEFING

High-risk operations should be debriefed as soon as reasonably practicable. The debriefing should include as many participants as possible. This debrief may be separate from any SWAT debriefing.

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607.11 TRAINING

The Supervising Investigator should ensure investigators and SWAT team members who participate in operations subject to this policy should receive periodic training including, but not limited to, topics such as legal issues, deconfliction practices, operations planning concepts and reporting requirements.

Chapter 7 - Equipment

Bureau Owned and Personal Property

700.1 PURPOSE AND SCOPE

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

700.2 CARE OF BUREAU PROPERTY

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

- (a) Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any bureau issued property or equipment assigned for their use.
- (b) The use of damaged or unserviceable bureau property should be discontinued as soon as practical and replaced with comparable bureau property as soon as available and following notice to a supervisor.
- (c) Except when otherwise directed by competent authority or required by exigent circumstances, bureau 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) Bureau property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- (e) In the event that any bureau property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

700.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be made in writing on a bureau memorandum. This memorandum is submitted to the employee's immediate supervisor. The supervisor may require a separate written report of the loss or damage.

The supervisor shall direct a memo to the appropriate Bureau Chief, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief Investigator who will then forward the claim to the Finance Department.

Bureau Owned and Personal Property

The Bureau will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

700.3.1 REPORTING REQUIREMENT

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted within the time frame directed by the supervisor to whom the verbal report is made.

700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

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

- (a) A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted within the time frame directed by the supervisor to whom the verbal report is made.

700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

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

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the Bureau Chief.

Personal Communication Devices

701.1 PURPOSE AND SCOPE

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

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

701.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation allows members to utilize bureau-issued or funded PCDs and to possess personally owned PCDs in the workplace, subject to certain limitations. Any PCD used while on-duty, or used off-duty in any manner reasonably related to the business of the Bureau, 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.

701.3 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 Bureau and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities (see the Information Technology Use Policy for additional guidance).

701.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)

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

Personal Communication Devices

701.4 BUREAU-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Bureau may, at its discretion, issue or fund a PCD. Bureau-issued or funded PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Bureau and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

701.5 PERSONALLY OWNED PCD

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

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
- (b) The Bureau 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) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy with regard to any bureau business-related communication.
 - 1. Members may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief Investigator.
- (e) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Bureau, without the express authorization of the Chief Investigator or the authorized designee.
- (f) Use of a personally owned PCD while at work or for work-related business constitutes consent for the Bureau to access the PCD to inspect and copy data to meet the needs of the Bureau, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Bureau with the telephone number of the device.
- (g) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Amador County District Attorney's Office Bureau of Investigation and deleted from the member's PCD as soon as reasonably practicable.

Except with prior express authorization from their supervisor, members are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. If a member is in an authorized status that allows for appropriate compensation consistent with policy or existing memorandum of understanding or collective

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bargaining agreements, or if the member has prior express authorization from his/her supervisor, the member may engage in business-related communications. Should members engage in such approved off-duty communications or work, members entitled to compensation shall promptly document the time worked and communicate the information to their supervisors to ensure appropriate compensation. Members who independently document off-duty bureau-related business activities in any manner shall promptly provide the Bureau with a copy of such records to ensure accurate record keeping.

701.6 USE OF PCD

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct bureau business:

- (a) A PCD should not be carried in a manner that allows it to be visible unless it is in an approved carrier.
- (b) All PCDs in the workplace should be set to silent or vibrate mode.
- (c) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.
- (d) Members may use a PCD to communicate with other personnel in situations where the use of radio communications is either impracticable or not feasible. PCDs should not be used as a substitute for, as a way to avoid, or in lieu of regular radio communications.
- (e) Members are prohibited from taking pictures, audio or video recordings or making copies of any such picture or recording media unless it is directly related to official bureau business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief Investigator or the authorized designee, may result in discipline.
- (f) Members will not access social networking sites for any purpose that is not official bureau business.
- (g) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

701.7 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
 - 1. An investigation into improper conduct should be promptly initiated when circumstances warrant.

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2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief Investigator or the authorized designee.

701.8 OFFICIAL USE

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other bureau communications network.

701.9 USE WHILE DRIVING

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Investigators operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Members who are operating bureau vehicles that are not authorized emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use. In an emergency, a wireless phone may be used to place an emergency call to the Bureau or other emergency services agency (Vehicle Code § 23123; Vehicle Code § 23123.5). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

Vehicle Maintenance

702.1 PURPOSE AND SCOPE

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

702.2 DEFECTIVE VEHICLES

When a bureau vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to vehicle maintenance for repair.

702.2.1 DAMAGE OR POOR PERFORMANCE

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

702.2.2 SEVERE USE

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

702.2.3 REMOVAL OF WEAPONS

All firearms, weapons and control devices shall be removed from a vehicle prior to the vehicle being released for maintenance, service or repair.

702.3 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, investigators driving bureau vehicles should not place a vehicle in service that has less than one-quarter tank of fuel. Vehicles should only be refueled at the authorized location.

702.4 WASHING OF VEHICLES

All units should be kept clean at all times and weather conditions permitting, should be washed as necessary to enhance their appearance.

Employees using a vehicle should remove any trash or debris at the end of their shift. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

702.5 NON-SWORN EMPLOYEE USE

Non-sworn employees using bureau vehicles shall ensure all weapons are removed from vehicles before going into service. Non-sworn employees shall not operate the emergency lights or siren of any vehicle unless expressly authorized by a supervisor.

Vehicle Maintenance

Vehicle Use

703.1 PURPOSE AND SCOPE

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

703.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation provides vehicles for bureau-related business and assigns vehicles based on a determination of operational efficiency, economic impact to the Bureau, requirements for tactical deployments and other considerations.

703.3 USE OF VEHICLES

703.3.1 ASSIGNED VEHICLES

The Chief Investigator shall ensure an assignment roster indicating member assignments and vehicle numbers is completed and retained in accordance with the established records retention schedule.

703.3.2 OTHER USE OF VEHICLES

Members utilizing a vehicle for any purpose other than their normally assigned duties or normal vehicle assignment (e.g., transportation to training, community event) shall first notify the Chief Investigator.

703.3.3 INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any vehicle before taking the vehicle into service. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

The interior of any vehicle that has been used to transport any person other than a member of this bureau should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized or personal items have not been left in the vehicle.

When transporting any suspect, prisoner or arrestee, the transporting member shall search all areas of the vehicle that are accessible by the person before and after that person is transported.

All bureau vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

Vehicle Use

703.3.4 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 while the vehicle is unattended.

703.3.5 KEYS

Members who are assigned a specific vehicle should be issued keys for that vehicle.

Members shall not duplicate keys. The loss of a key shall be promptly reported in writing through the member's chain of command.

703.3.6 AUTHORIZED PASSENGERS

Members operating bureau 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.

703.3.7 ALCOHOL

Members who have consumed alcohol are prohibited from operating any bureau vehicle unless it is required by the duty assignment (e.g., task force, undercover work). Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

703.3.8 PARKING

Except when responding to an emergency or when urgent bureau-related business requires otherwise, members driving bureau vehicles should obey all parking regulations at all times.

bureau

703.3.9 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions or removal of any equipment or accessories without written permission from the Chief Investigator.

703.3.10 NON-SWORN MEMBER USE

Non-sworn members using bureau vehicles shall ensure that all weapons have been removed before going into service. Non-sworn members shall not operate the emergency lights or siren of any vehicle unless expressly authorized by an investigator or a supervisor.

703.4 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES

Bureau vehicles may be assigned to individual members at the discretion of the District Attorney or Chief Investigator. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

Vehicle Use

The assignment of vehicles may be suspended when the member is unable to perform his/her regular assignment.

703.4.1 ON-DUTY USE

Vehicle assignments shall be based on the nature of the member's duties, job description and essential functions, and employment or appointment status. Vehicles may be reassigned or utilized by other bureau members at the discretion of the Chief Investigator or the authorized designee.

703.4.2 UNSCHEDULED TAKE-HOME USE

Circumstances may arise where bureau vehicles must be used by members to commute to and from a work assignment. Members without assigned home retention vehicles may take home bureau vehicles only with prior approval of a supervisor and shall meet the following criteria:

- (a) The circumstances are unplanned and were created by the needs of the bureau.
- (b) Other reasonable transportation options are not available.
- (c) The member lives within a reasonable distance (generally not to exceed a 60-minute drive time) of the Amador County County limits.
- (d) Off-street parking will be available at the member's residence.
- (e) Vehicles will be locked when not attended.
- (f) All firearms, weapons and control devices will be removed from the interior of the vehicle and properly secured in the residence when the vehicle is not attended, unless the vehicle is parked in a locked garage.

703.4.3 ASSIGNED VEHICLES

Assignment of home retention vehicles shall be based on the location of the member's residence, the nature of the member's duties, job description and essential functions, and employment or appointment status.

County

Criteria for use of take-home vehicles include the following:

- (a) Vehicles shall only be used for work-related purposes and shall not be used for personal errands or transports unless going to or from work or a work related function, or unless special circumstances exist and the Chief Investigator, Supervising Investigator, or District Attorney gives authorization.
- (b) Vehicles may be used to transport the member to and from the member's residence for work-related purposes.
- (c) Vehicles will not be used when off-duty except:
 - (a) In circumstances when a member has been placed on call by the Chief Investigator or Supervising Investigator and there is a high probability that the member will be called back to duty.

Vehicle Use

- (b) When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or travelling to or from a work-related activity or function.
- (c) When the member has received permission from the Chief Investigator or Supervising Investigator.
- (d) When the vehicle is being used by the Chief Investigator or Supervising Investigator who are in on-call administrative positions.
- (e) While operating the vehicle, authorized members will carry and have accessible their duty firearms and be prepared to perform any function they would be expected to perform while on-duty.
- (d) The two-way communications radio must be on and set to an audible volume when the vehicle is in operation.
- (e) Unattended vehicles are to be locked and secured at all times.
 - 1. No key should be left in the vehicle except when it is necessary that the vehicle be left running (e.g., continued activation of emergency lights, canine safety, equipment charging).
 - 2. All weapons shall be secured while the vehicle is unattended.
 - 3. All bureau identification, portable radios and equipment should be secured.
- (f) Vehicles are to be parked off-street at the member's residence unless prior arrangements have been made with the Chief Investigator or the authorized designee. If the vehicle is not secured inside a locked garage, all firearms and kinetic impact weapons shall be removed and properly secured in the residence (see the Firearms Policy regarding safe storage of firearms at home).
- (g) Vehicles are to be secured at the member's residence or the appropriate bureau facility, at the discretion of the Bureau when a member will be away (e.g., on vacation) for periods exceeding one week.
 - 1. If the vehicle remains at the residence of the member, the Bureau shall have access to the vehicle.
 - 2. If the member is unable to provide access to the vehicle, it shall be parked at the Bureau.
- (h) The member is responsible for the care and maintenance of the vehicle.

703.4.4 ENFORCEMENT ACTIONS

When driving a take-home vehicle to and from work outside of the jurisdiction of the Amador County District Attorney's Office Bureau of Investigation or while off-duty, an investigator shall not initiate enforcement actions except in those circumstances where a potential threat to life or serious property damage exists (see the Off-Duty Law Enforcement Actions and Law Enforcement Authority policies).

Investigators may render public assistance when it is deemed prudent (e.g., to a stranded motorist).

Vehicle Use

Investigators driving take-home vehicles shall be armed, appropriately attired and carry their bureau-issued identification. Investigators should also ensure that bureau radio communication capabilities are maintained to the extent feasible.

703.4.5 MAINTENANCE

Members are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles. Cleaning and maintenance supplies will be provided by the Bureau. Failure to adhere to these requirements may result in discipline and loss of vehicle assignment. The following should be performed as outlined below:

- (a) Members shall make routine inspections of their assigned vehicles for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance shall be performed as necessary at the maintenance facility.
- (d) The Bureau shall be notified of problems with the vehicle and approve any major repairs before they are performed.
- (e) When leaving the vehicle at the maintenance facility, the member will complete a vehicle repair form explaining the service or repair, and leave it on the seat or dash.
- (f) All weapons shall be removed from any vehicle left for maintenance.
- (g) Supervisors should make routine inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

703.5 DAMAGE, ABUSE AND MISUSE

When any bureau vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction (see the Traffic Collision Reporting Policy).

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

703.6 TOLL ROAD USAGE

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating bureau vehicles on a toll road shall adhere to the following:

- (a) Members operating bureau vehicles for any reason other than in response to an emergency shall pay the appropriate toll charge or utilize the appropriate toll way

Vehicle Use

transponder. Members may submit a request for reimbursement from the County for any toll fees incurred in the course of official business.

- (b) Members passing through a toll plaza or booth during a response to an emergency shall notify, in writing, the appropriate Bureau Chief within five working days explaining the circumstances.

703.6 ATTIRE AND APPEARANCE

When operating any bureau vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Bureau.

Cash Handling, Security and Management

704.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure bureau members handle cash appropriately in the performance of their duties.

This policy does not address cash-handling issues specific to the Property and Evidence and Informants policies.

704.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to properly handle and document cash transactions and to maintain accurate records of cash transactions in order to protect the integrity of bureau operations and ensure the public trust.

704.3 ROUTINE CASH HANDLING

Those who handle cash as part of their property or ACCNET (Amador County Combined Narcotics Enforcement Team) supervisor duties shall discharge those duties in accordance with the Property and Evidence and Informants policies.

Members who routinely accept payment for bureau services shall discharge those duties in accordance with the procedures established for those tasks.

704.4 OTHER CASH HANDLING

Members of the Bureau who, within the course of their duties, are in possession of cash that is not their property or that is outside their defined cash-handling responsibilities shall, as soon as practicable, verify the amount, summon another member to verify their accounting, and process the cash for safekeeping or as evidence or found property, in accordance with the Property and Evidence Policy.

Cash in excess of \$1,000 requires immediate notification of a supervisor, special handling, verification and accounting by the supervisor. Each member involved in this process shall complete an appropriate report or record entry.

Personal Protective Equipment

705.1 PURPOSE AND SCOPE

This policy identifies the different types of personal protective equipment (PPE) provided by the Bureau as well the requirements and guidelines for the use of PPE.

This policy does not address ballistic vests or protection from communicable disease, as those issues are addressed in the Body Armor and Communicable Diseases policies.

705.1.1 DEFINITIONS

Definitions related to this policy include:

Personal protective equipment (PPE) - Equipment that protects a person from serious workplace injuries or illnesses resulting from contact with chemical, radiological, physical, electrical, mechanical or other workplace hazards.

Respiratory PPE - Any device that is worn by the user to protect from exposure to atmospheres where there is smoke, low levels of oxygen, high levels of carbon monoxide, or the presence of toxic gases or other respiratory hazards. For purposes of this policy, respiratory PPE does not include particulate-filtering masks such as N95 or N100 masks.

705.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation endeavors to protect members by supplying certain PPE to members as provided in this policy.

705.3 INVESTIGATOR RESPONSIBILITIES

Members are required to use PPE as provided in this policy and pursuant to their training.

Members are responsible for proper maintenance and storage of issued PPE. PPE should be stored in an appropriate location so that it is available when needed.

Any member who identifies hazards in the workplace is encouraged to utilize the procedures in the Illness and Injury Prevention Policy to recommend new or improved PPE or additional needs for PPE.

705.4 HEARING PROTECTION

Approved hearing protection shall be used by members during firearms training.

Hearing protection shall meet or exceed the requirements provided in 8 CCR 5098.

705.5 EYE PROTECTION

Approved eye protection, including side protection, shall be used by members during firearms training. Eye protection for members who wear prescription lenses shall incorporate the prescription (e.g., eye protection that can be worn over prescription lenses). Members shall ensure their eye protection does not interfere with the fit of their hearing protection.

Personal Protective Equipment

The Rangemaster shall ensure eye protection meets or exceeds the requirements provided in 8 CCR 3382.

Chapter 8 - Support Services

Property and Evidence

800.1 PURPOSE AND SCOPE

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

800.2 DEFINITIONS

Property - Includes all items of evidence, items taken for safekeeping and found property.

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

Safekeeping - Includes the following types of property:

- Property obtained by the Bureau for safekeeping such as a firearm
- Personal property of an arrestee not taken as evidence
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons))

Found property - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

800.3 PROPERTY HANDLING

Any employee who first comes into possession of any property shall retain such property in his/her possession until it is properly tagged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the items.

800.3.1 PROPERTY BOOKING PROCEDURE

Employees booking property shall observe the following guidelines:

- (a) Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- (b) Complete an evidence/property tag and attach it to each package or envelope in which the property is stored.
- (c) The original property form shall be submitted with the case report. A copy shall be placed with the property in the property room.

Property and Evidence

800.3.2 NARCOTICS AND DANGEROUS DRUGS

All narcotics and dangerous drugs shall be booked separately using a separate property record. Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately.

The investigator seizing the narcotics and dangerous drugs shall place them in the property room.

800.3.3 EXPLOSIVES

Investigators who encounter a suspected explosive device shall promptly notify the Supervising Investigator. The bomb squad will be called to handle explosive-related incidents and will be responsible for the handling, storage, sampling and disposal of all suspected explosives.

Explosives will not be retained in the district attorney's office facility. Only fireworks that are considered stable and safe and road flares or similar signaling devices may be booked into property. All such items shall be stored in proper containers and in an area designated for the storage of flammable materials. The investigator is responsible for transporting to the Fire Department, on a regular basis, any fireworks or signaling devices that are not retained as evidence.

800.3.4 EXCEPTIONAL HANDLING

Certain property items require a separate process. The following items shall be processed in the described manner:

- (a) Bodily fluids such as blood or semen stains shall be air dried prior to booking.
- (b) License plates found not to be stolen or connected with a known crime, should be returned to the Department of Motor Vehicles. No formal property booking process is required.
- (c) All cash shall be counted in the presence of another investigator and the enveloped initialed by both investigators.

County property, unless connected to a known criminal case, should be released directly to the appropriate County department. No formal booking is required. In cases where no responsible person can be located, the property should be booked for safekeeping in the normal manner.

800.3.5 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

- (a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or
- (b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or
- (c) The Automated Firearms System indicates that the firearm was reported lost or stolen.

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1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Bureau has complied with the requirements of Penal Code § 33850 et seq.

The investigator shall ensure the Sheriff's Office Dispatch is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Section Policy).

800.4 PACKAGING OF PROPERTY

Certain items require special consideration and shall be booked separately as follows:

- (a) Narcotics and dangerous drugs
- (b) Firearms (ensure they are unloaded and booked separately from ammunition)
- (c) Property with more than one known owner
- (d) Paraphernalia as described in Health and Safety Code § 11364
- (e) Fireworks
- (f) Contraband

800.4.1 PACKAGING CONTAINER

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

800.4.2 PACKAGING NARCOTICS

The investigator seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed in the property room. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the investigator's report.

Narcotics and dangerous drugs shall be packaged in the appropriate narcotics envelope. The booking investigator shall initial the sealed envelope and the initials covered with cellophane tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this tag.

800.5 RECORDING OF PROPERTY

The investigator receiving custody of evidence or property shall record his/her signature, the date and time the property was received and where the property will be stored on the property sheet.

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A property number shall be obtained for each item or group of items. This number shall be recorded on the property sheet.

Any changes in the location of property held by the Amador County District Attorney's Office Bureau of Investigation shall be noted on the property sheet.

800.6 PROPERTY CONTROL

Each time the investigator receives property or releases property to another person, he/she shall enter this information on the property sheet.

800.6.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry on the evidence package shall be completed to maintain the chain of evidence. No property or evidence is to be released without first receiving written authorization from a supervisor or deputy district attorney.

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms. This request may be filled out any time after booking of the property or evidence.

800.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The transporting employee will check the evidence out of property, indicating the date and time on the property sheet and the request for laboratory analysis.

The investigator releasing the evidence must complete the required information on the property control card and the evidence. The lab forms will be transported with the property to the examining laboratory. Upon delivering the item involved, the investigator will record the delivery time, and indicate the locker in which the item was placed or the employee to whom it was delivered. The original copy of the lab form will remain with the evidence.

800.6.3 STATUS OF PROPERTY

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to investigators for investigative purposes, or for court, shall be noted on the property sheet, stating the date, time and to whom released.

The investigator shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is returned or released to another authorized person or entity.

The return of the property should be recorded on the property sheet, indicating date, time, and the person who returned the property.

800.6.4 AUTHORITY TO RELEASE PROPERTY

The Investigation's Bureau shall authorize the disposition or release of all evidence and property coming into the care and custody of the Bureau.

Property and Evidence

800.6.5 RELEASE OF PROPERTY

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

A DA Investigator or Legal Assistant shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. After release of all property entered on the property sheet, the sheet shall be forwarded to the Legal Assistant for filing with the case. If some items of property have not been released, the property sheet will remain with the evidence or updated appropriately in RiMS. Upon release, the proper entry shall be documented in the Property section of RiMS.

Under no circumstances shall any firearm, magazine, or ammunition be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865.

A DA Investigator or Legal Assistant should also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and, if so, the firearm should not be released to the person while the order is in effect.

The Bureau is not required to retain any firearm, magazine, or ammunition longer than 180 days after notice has been provided to the owner that such items are available for return. At the expiration of such period, the firearm, magazine, or ammunition may be processed for disposal in accordance with applicable law (Penal Code § 33875).

800.6.6 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Bureau, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

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All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Bureau may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

800.6.7 CONTROL OF NARCOTICS AND DANGEROUS DRUGS

The Investigation's Bureau will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this bureau, including paraphernalia as described in Health and Safety Code § 11364.

800.6.8 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm or ammunition, the DA Investigator shall return the weapon or ammunition to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met, unless the firearm or ammunition is determined to be stolen, evidence in a criminal investigation, or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

800.6.9 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS

Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Amador County District Attorney's Office Bureau of Investigation determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

800.6.10 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

- (a) If a petition for a hearing regarding the return of a firearm or a weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the firearm or weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person

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presents valid identification and written notification from the California Department of Justice (DOJ) that conforms to the provisions of Penal Code § 33865.

- (b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the firearm or weapon is not retained as evidence, the Bureau shall make the firearm or weapon available for return. No firearm will be returned unless and until the person presents valid identification and written notification from the California DOJ that conforms to the provisions of Penal Code § 33865.
- (c) Unless the person contacts the Bureau to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed, or retained as provided in Welfare and Institutions Code § 8102.

800.6.11 RELEASE OF FIREARMS, MAGAZINES, AND AMMUNITION

The Bureau shall not return any firearm, magazine, or ammunition taken into custody to any individual unless all requirements of Penal Code § 33855 are met.

800.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. A DA Investigator or Legal Assistant shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or deputy district attorney.

800.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

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800.7.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Bureau shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than \$15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this bureau to fund official law enforcement operations.

800.7.3 RETENTION OF BIOLOGICAL EVIDENCE

A DA Investigator or Legal Assistant shall ensure that no biological evidence held by the Bureau is destroyed without adequate notification to the following persons, when applicable:

- (a) The defendant
- (b) The defendant's attorney
- (c) The appropriate prosecutor
- (d) Any sexual assault victim
- (e) The Supervising Investigator or Chief Investigator

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9), or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Bureau within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the District Attorney.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the District Attorney.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Chief Investigator should be consulted and the sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

Property and Evidence

800.8 INSPECTIONS OF THE EVIDENCE ROOM

- (a) On a annual basis, the Chief Investigator shall make inspections of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.
- (b) An annual audit of evidence held by the Bureau shall be conducted by the Supervising Investigator and Legal Assistant.

Restoration of Firearm Serial Numbers

801.1 PURPOSE AND SCOPE

The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines. This policy complies with Penal Code § 11108.9.

801.2 PROCEDURE

Any firearm coming into the possession of the Amador County District Attorney's Office Bureau of Investigation as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

801.2.1 PRELIMINARY FIREARM EXAMINATION

- (a) Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an unloaded condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tubular magazine) as well as the chamber contents.
- (b) If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, treat the firearm as if it is loaded. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.
- (c) Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.
- (d) If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

801.2.2 PROPERTY BOOKING PROCEDURE

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

Restoration of Firearm Serial Numbers

801.2.3 INVESTIGATOR RESPONSIBILITY

The investigator receiving a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

801.2.4 DOCUMENTATION

Case reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

801.2.5 FIREARM TRACE

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the investigator will complete a Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATF 3312.1-OBL) and forward the form to the NTC in Falling Waters, West Virginia or enter the data into the ATF eTrace system.

801.3 BULLET AND CASING IDENTIFICATION

Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

Records Maintenance and Release

802.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of bureau records. Protected information is separately covered in the Protected Information Policy.

802.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 6250 et seq.).

802.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The District Attorney shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to:

- (a) Managing the records management system for the Bureau, including the retention, archiving, release, and destruction of bureau public records.
- (b) Maintaining and updating the bureau records retention schedule including:
 1. Identifying the minimum length of time the Bureau must keep records.
 2. Identifying the bureau responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of bureau public records as reasonably necessary for the protection of such records (Government Code § 6253).
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 6253).
- (g) Determining how the bureau's website may be used to post public records in accordance with Government Code § 6253.
- (h) Ensuring that all bureau current standards, policies, practices, operating procedures, and education and training materials are posted on the bureau website in accordance with Penal Code § 13650.
- (i) Ensuring that public records posted on the Bureau website meet the requirements of Government Code § 6253.10 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.
- (j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 6270.5) is publicly available upon request and posted in a prominent location on the Bureau's website.

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802.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any bureau member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

802.4.1 REQUESTS FOR RECORDS

Any member of the public, including the media and elected officials, may access unrestricted records of this bureau, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 6253).

The processing of requests for any record is subject to the following (Government Code § 6253):

- (a) The Bureau is not required to create records that do not exist.
- (b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain bureau records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 6254.30).
- (c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Bureau shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.
 - 1. When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 6253.1).
 - 2. If the record requested is available on the bureau website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.
- (d) Upon request, a record shall be provided in an electronic format utilized by the Bureau. Records shall not be provided only in electronic format unless specifically requested (Government Code § 6253.9).
- (e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
 - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the

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redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the bureau-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.

- (f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure (Government Code § 6255). The written response shall also include the names, titles or positions of each person responsible for the denial.

802.5 RELEASE RESTRICTIONS

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any bureau record, including traffic collision reports, are restricted except as authorized by the Bureau, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Social Security numbers (Government Code § 6254.29).
- (c) Personnel records, medical records, and similar records that would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 6254; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).
 - 1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.
 - 2. The identity of any investigator subject to any criminal or administrative investigation shall not be released without the consent of the involved investigator, prior approval of the Chief Investigator, or as required by law.
- (d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking (Penal Code § 293)). Addresses and telephone numbers of a victim or a witness to any arrested person or to any person who may be a defendant in a criminal action shall not be disclosed, unless it is required by law (Government Code § 6254; Penal Code § 841.5).
 - 1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, elder and dependent adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.

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2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).
- (e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 6254.4.5.
 - (f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating investigators (Evidence Code § 1041; Government Code § 6254).
 1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).
 - (g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.
 1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, County Counsel, or the courts pursuant to Penal Code § 1054.5.
 - (h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).
 - (i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).
 - (j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 6254).
 - (k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.
 - (l) Any record created exclusively in anticipation of potential litigation involving this bureau (Government Code § 6254).
 - (m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 6254.25).
 - (n) Records relating to the security of the bureau's electronic technology systems (Government Code § 6254.19).

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- (o) A record of a complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(9)).
- (p) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 6254).
- (q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).

802.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the Deputy District Attorney handling the case, or the Chief Assistant District Attorney.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to the Chief Assistant District Attorney so that a timely response can be prepared.

802.7 RELEASED RECORDS TO BE MARKED

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the bureau name and to whom the record was released.

Each audio/video recording released should include the bureau name and to whom the record was released.

802.8 SEALED RECORD ORDERS

Sealed record orders received by the Bureau shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).

When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Legal Secretary Supervisor shall ensure that the required notations on local summary criminal history information and police

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investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

802.8.1 SEALED JUVENILE ARREST RECORDS

Upon receiving notice from a probation department to seal juvenile arrest records pursuant to Welfare and Institutions Code § 786.5, the Custodian of Records should ensure that the records are sealed within 60 days of that notice and that the probation department is notified once the records have been sealed (Welfare and Institutions Code § 786.5).

802.9 SECURITY BREACHES

The Custodian of Records shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any Bureau information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Bureau determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following:

- Social Security number
- Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
- Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
- Medical information
- Health insurance information
- A username or email address, in combination with a password or security question and answer that permits access to an online account
- Information or data collected by Automated License Plate Reader (ALPR) technology
- Unique biometric data
- Genetic data

802.9.1 FORM OF NOTICE

- (a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:

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1. The date of the notice.
 2. Name and contact information for the Amador County District Attorney's Office Bureau of Investigation.
 3. A list of the types of personal information that were or are reasonably believed to have been acquired.
 4. The estimated date or date range within which the security breach occurred.
 5. Whether the notification was delayed as a result of a law enforcement investigation.
 6. A general description of the security breach.
 7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a Social Security number or a driver license or California identification card number.
- (b) The notice may also include information about what the Amador County District Attorney's Office Bureau of Investigation has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).
- (c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):
1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Bureau in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
 2. When the breach involves an email address that was furnished by the Amador County District Attorney's Office Bureau of Investigation, notification of the breach should not be sent to that email address but should instead be made by another appropriate medium as prescribed by Civil Code § 1798.29.

802.9.2 MANNER OF NOTICE

- (a) Notice may be provided by one of the following methods (Civil Code § 1798.29):
1. Written notice.
 2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
 3. Substitute notice if the cost of providing notice would exceed \$250,000, the number of individuals exceeds 500,000 or the Bureau does not have sufficient contact information. Substitute notice shall consist of all of the following:

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- (a) Email notice when the Bureau has an email address for the subject person.
 - (b) Conspicuous posting of the notice on the bureau's webpage for a minimum of 30 days.
4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.
- (b) If a single breach requires the Bureau to notify more than 500 California residents, the Bureau shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

802.10 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 6254(f)(4)).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by an investigator, or depicts an incident in which the use of force by an investigator against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 6254(f)(4)).

The Custodian of Records should work as appropriate with the District Attorney or the Chief Investigator and/or Supervising Investigator in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

802.10.1 DELAY OF RELEASE

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

- (a) Disclosure may be delayed up to 45 days from the date the Bureau knew or reasonably should have known about the incident.
- (b) Delay of disclosure may continue after the initial 45 days and up to one year if the Bureau demonstrates that disclosure would substantially interfere with the investigation.
- (c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 6254(f)(4)).

802.10.2 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 6254(f)(4)):

- (a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would

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substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.

- (b) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief Investigator in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

802.10.3 REDACTION

If the Custodian of Records, in consultation with the Chief Investigator or authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Bureau should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 6254(f)(4)).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 6254(f)(4)).

802.10.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE

If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Bureau may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 6254(f)(4)):

- (a) The person in the recording whose privacy is to be protected, or his/her authorized representative.
- (b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.
- (c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the Bureau determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written

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notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 6254(f)(4)).

The Bureau may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 6254(f)(4)(A)).

Protected Information

803.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Amador County District Attorney's Office Bureau of Investigation. This policy addresses the protected information that is used in the day-to-day operation of the Bureau and not the public records information covered in the Records Maintenance and Release Policy.

803.1.1 DEFINITIONS

Definitions related to this policy include:

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

803.2 POLICY

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

803.3 RESPONSIBILITIES

The Chief Investigator shall 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 and California Law Enforcement Telecommunications System (CLETS).
- (b) Developing, disseminating and maintaining procedures that adopt or comply with the U.S. Department of Justice's current Criminal Justice Information Services (CJIS) Security Policy.
- (c) Developing, disseminating and maintaining any other procedures necessary to comply with any other requirements for the access, use, dissemination, release and security of protected information.
- (d) Developing procedures to ensure training and certification requirements are met.
- (e) Resolving specific questions that arise regarding authorized recipients of protected information.
- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

Protected Information

803.4 ACCESS TO PROTECTED INFORMATION

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

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

803.4.1 PENALTIES FOR MISUSE OF RECORDS

It is a misdemeanor to furnish, buy, receive or possess Department of Justice criminal history information without authorization by law (Penal Code § 11143).

Authorized persons or agencies violating state regulations regarding the security of Criminal Offender Record Information (CORI) maintained by the California Department of Justice may lose direct access to CORI (11 CCR 702).

803.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

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

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Bureau may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Custodian of Records to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

803.5.1 REVIEW OF CRIMINAL OFFENDER RECORD

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

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

803.5.2 TRANSMISSION GUIDELINES

Protected information, such as restricted Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should not be transmitted via unencrypted radio. When circumstances reasonably indicate that the immediate safety of investigators, other bureau members, or the public is at risk, only summary information may be transmitted.

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In cases where the transmission of protected information, such as Personally Identifiable Information, is necessary to accomplish a legitimate law enforcement purpose, and utilization of an encrypted radio channel is infeasible, a cellular telephone should be utilized when practicable. If neither are available, unencrypted radio transmissions shall be subject to the following:

- Elements of protected information should be broken up into multiple transmissions, to minimally separate an individual's combined last name and any identifying number associated with the individual, from either first name or first initial.
- Additional information regarding the individual, including date of birth, home address, or physical descriptors, should be relayed in separate transmissions.

Nothing in this policy is intended to prohibit broadcasting warrant information.

803.6 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

803.7 SECURITY OF PROTECTED INFORMATION

The Chief Investigator will oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- (d) Tracking, documenting and reporting all breach of security incidents to the Chief Investigator and appropriate authorities.

803.7.1 MEMBER RESPONSIBILITIES

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

803.8 TRAINING

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

Computers and Digital Evidence

804.1 PURPOSE AND SCOPE

This policy establishes procedures for the seizure and storage of computers, personal communications devices (PCDs) digital cameras, digital recorders and other electronic devices that are capable of storing digital information; and for the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

804.2 SEIZING COMPUTERS AND RELATED EVIDENCE

Computer equipment requires specialized training and handling to preserve its value as evidence. Investigators should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories the following steps should be taken:

- (a) Photograph each item, front and back, specifically including cable connections to other items. Look for a phone line or cable to a modem for Internet access.
- (b) Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as fingerprints, biological or trace evidence, and/or documents.
- (c) If the computer is off, do not turn it on.
- (d) If the computer is on, do not shut it down normally and do not click on anything or examine any files.
 1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
 2. Disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).
- (e) Label each item with case number, evidence sheet number, and item number.
- (f) Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.
- (g) Lodge all computer items in the Property Room. Do not store computers where normal room temperature and humidity is not maintained.
- (h) At minimum, investigators should document the following in related reports:
 1. Where the computer was located and whether or not it was in operation.
 2. Who was using it at the time.
 3. Who claimed ownership.

Computers and Digital Evidence

4. If it can be determined, how it was being used.
 - (i) In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (hard drives, tape drives, and disk drives) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.

804.2.1 BUSINESS OR NETWORKED COMPUTERS

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Investigators should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an on-site inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

804.2.2 FORENSIC EXAMINATION OF COMPUTERS

If an examination of the contents of the computer's hard drive, or floppy disks, compact discs, or any other storage media is required, forward the following items to a computer forensic examiner:

- (a) Copy of report(s) involving the computer, including the Property sheet.
- (b) Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.
- (c) A listing of the items to search for (e.g., photographs, financial records, e-mail, documents).
- (d) An exact duplicate of the hard drive or disk will be made using a forensic computer and a forensic software program by someone trained in the examination of computer storage devices for evidence.

804.3 SEIZING DIGITAL STORAGE MEDIA

Digital storage media including hard drives, floppy discs, CD's, DVD's, tapes, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

- (a) If the media has a write-protection tab or switch, it should be activated.
- (b) Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation, copy the contents to an appropriate form of storage media.
- (c) Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.
- (d) Do not leave storage media where they would be subject to excessive heat such as in a parked vehicle on a hot day.

Computers and Digital Evidence

- (e) Use plastic cases designed to protect the media, or other protective packaging, to prevent damage.

804.4 SEIZING PCDS

Personal communication devices such as cell phones, PDAs or other hand-held devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

- (a) Investigators should not attempt to access, review or search the contents of such devices prior to examination by a forensic expert. Unsent messages can be lost, data can be inadvertently deleted and incoming messages can override stored messages.
- (b) Do not turn the device on or off. The device should be placed in a solid metal container such as a paint can or in a faraday bag, to prevent the device from sending or receiving information from its host network.
- (c) When seizing the devices, also seize the charging units and keep them plugged in to the chargers until they can be examined. If the batteries go dead all the data may be lost.

804.5 DIGITAL EVIDENCE RECORDED BY OFFICERS

Investigators handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence.

804.5.1 COLLECTION OF DIGITAL EVIDENCE

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

804.5.2 SUBMISSION OF DIGITAL MEDIA

Investigators will make a copy of the memory card using appropriate storage media. Once they have verified that the images properly transferred to the storage media, the technicians will erase the memory card for re-use. The storage media will be marked as the original.

804.5.3 DOWNLOADING OF DIGITAL FILES

Digital information such as video or audio files recorded on devices using internal memory must be downloaded to storage media. The following procedures are to be followed:

- (a) Files should not be opened or reviewed prior to downloading and storage.
- (b) Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

Computers and Digital Evidence

804.5.4 PRESERVATION OF DIGITAL EVIDENCE

- (a) The original digital media shall remain in evidence and shall remain unaltered.
- (b) Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.
- (c) If any enhancement is done to the copy of the original, it shall be noted in the corresponding incident report.

Animal Control

805.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for interacting with animals and when requested to respond to calls for service that involve animals.

805.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to be responsive to the needs of the community regarding animal-related issues. This includes enforcing local, state and federal laws relating to animals and appropriately resolving or referring animal-related problems, as outlined in this policy.

805.3 INVESTIGATOR RESPONSIBILITIES

Investigators who are requested to respond to assist with animal-related calls for service should evaluate the situation to determine the appropriate actions to control the situation.

Due to the hazards of handling animals without proper training and equipment, responding members generally should not attempt to capture or pick up any animal, but should keep the animal under observation until the arrival of appropriate assistance.

Members may consider acting before the arrival of such assistance when:

- (a) There is a threat to public safety.
- (b) An animal has bitten someone. Members should take measures to confine the animal and prevent further injury.
- (c) An animal is creating a traffic hazard.
- (d) An animal is seriously injured.
- (e) The owner/handler of an animal has been arrested or is incapacitated. In such circumstances, the member should find appropriate placement for the animal.
 1. This is only necessary when the arrestee is expected to be in custody for a time period longer than would reasonably allow him/her to properly care for the animal.
 2. With the owner's consent, locating appropriate placement may require contacting relatives or neighbors to care for the animal.
 3. If no person can be found or the owner does not or cannot give consent, the animal should be taken to a designated animal care facility.

805.4 ANIMAL CRUELTY COMPLAINTS

Laws relating to the cruelty to animals should be enforced, including but not limited to Penal Code § 597 et seq. (cruelty to animals, failure to care for animals).

- (a) An investigation should be conducted on all reports of animal cruelty.

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- (b) Legal steps should be taken to protect an animal that is in need of immediate care or protection from acts of cruelty.

805.5 ANIMAL BITE REPORTS

Members investigating an animal bite should obtain as much information as possible for follow-up with the appropriate health or animal authorities. Efforts should be made to capture or otherwise have the animal placed under control. Members should attempt to identify and notify the owner of the final disposition of the animal.

805.6 STRAY DOGS

If a stray dog has a license or can otherwise be identified, the owner should be contacted, if possible. If the owner is contacted, the dog should be released to the owner and a citation may be issued, if appropriate. If a dog is taken into custody, it shall be transported to the appropriate animal care facility.

Members shall provide reasonable treatment to animals in their care (e.g., food, water, shelter).

805.7 DANGEROUS ANIMALS

In the event responding members cannot fulfill a request for service because an animal is difficult or dangerous to handle, Animal Control will be contacted..

805.8 DECEASED ANIMALS

When a member becomes aware of a deceased animal, all reasonable attempts should be made to preliminarily determine if the death of the animal is related to criminal activity.

Members should not climb onto or under any privately owned structure for the purpose of removing a deceased animal.

When handling deceased animals, members should attempt to identify and notify the owner of the final disposition of the animal.

805.9 INJURED ANIMALS

When a member becomes aware of an injured domesticated animal, all reasonable attempts should be made to contact an owner or responsible handler. If an owner or responsible handler cannot be located, the animal should be taken to a veterinarian and notice shall be given to the owner pursuant to the requirements of Penal Code § 597.1.

805.9.1 VETERINARY CARE

The injured animal should be taken to a veterinarian as follows:

- (a) During normal business hours, the animal should be taken to an authorized veterinary care clinic.

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- (b) If after normal business hours, the animal should be taken to the authorized Veterinary Emergency and Critical Care Services Clinic.
- (c) An exception to the above exists when the animal is an immediate danger to the community or the owner of the animal is identified and takes responsibility for the injured animal.

Each incident shall be documented and, at minimum, include the name of the reporting party and veterinary hospital and/or person to whom the animal is released.

If Animal Control is not available, the information will be forwarded for follow-up.

805.9.2 INJURED WILDLIFE

Injured wildlife should be referred to the Department of Fish and Wildlife or the Tri-County Wildlife Center as applicable.

805.9.3 RESCUE OF ANIMALS IN VEHICLES

If an animal left unattended in a vehicle appears to be in distress, members may enter the vehicle for the purpose of rescuing the animal. Members should (Penal Code § 597.7(d)):

- (a) Make a reasonable effort to locate the owner before entering the vehicle.
- (b) Take steps to minimize damage to the vehicle.
- (c) Refrain from searching the vehicle or seizing items except as otherwise permitted by law.
- (d) Leave notice on or in the vehicle identifying the location where the animal has been taken and the name and Bureau of the member involved in the rescue.
- (e) Make reasonable efforts to contact the owner or secure the vehicle before leaving the scene.
- (f) Take the animal to an animal care facility, a place of safekeeping or, if necessary, a veterinary hospital for treatment.

805.9 DESTRUCTION OF ANIMALS

When it is necessary to use a firearm to euthanize a badly injured animal or stop an animal that poses an imminent threat to human safety, the Firearms Policy shall be followed. A badly injured animal can be euthanized at the discretion of the investigator..

Chapter 9 - Custody

Temporary Custody of Adults

900.1 PURPOSE AND SCOPE

This policy provides guidelines to address the health and safety of adults taken into temporary custody by members of the Amador County District Attorney's Office Bureau of Investigation for processing prior to being released or transferred to a housing or other type of facility.

Temporary custody of juveniles is addressed in the Temporary Custody of Juveniles Policy. Juveniles will not be permitted where adults in custody are being held.

Custodial searches are addressed in the Custodial Searches Policy.

900.1.1 DEFINITIONS

Definitions related to this policy include:

Holding cell/cell - Any locked enclosure for the custody of an adult or any other enclosure that prevents the occupants from being directly visually monitored at all times by a member of the Bureau.

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

Temporary custody - The time period an adult is in custody at the Amador County District Attorney's Office prior to being released or transported to a housing or other type of facility.

900.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation is committed to releasing adults from temporary custody as soon as reasonably practicable, and to keeping adults safe while in temporary custody at the Amador County District Attorney's Office. Adults should be in temporary custody only for as long as reasonably necessary for investigation, processing, transfer or release.

900.3 GENERAL CRITERIA AND SUPERVISION

No adult should be in temporary custody for longer than six hours.

900.3.1 INDIVIDUALS WHO SHOULD NOT BE IN TEMPORARY CUSTODY

Individuals who exhibit certain behaviors or conditions should not be in temporary custody at the Amador County District Attorney's Office, but should be transported to a jail facility, a medical facility, or another type of facility as appropriate. These include:

- (a) Any individual who is unconscious or has been unconscious while being taken into custody or while being transported.
- (b) Any individual who has a medical condition, including pregnancy, that may require medical attention, supervision, or medication while he/she is in temporary custody.
- (c) Any individual who is seriously injured.

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- (d) Individuals who are a suspected suicide risk (see the Mental Illness Commitments Policy).
 - 1. If the investigator taking custody of an individual believes that he/she may be a suicide risk, the investigator shall ensure continuous direct supervision until evaluation, release, or a transfer to an appropriate facility is completed (15 CCR 1030).
- (e) Individuals who are obviously in crisis, as defined in the Crisis Intervention Incidents Policy.
- (f) Individuals who are under the influence of alcohol, a controlled substance, or any substance to the degree that may require medical attention, or who have ingested any substance that poses a significant risk to their health, whether or not they appear intoxicated.
- (g) Any individual who has exhibited extremely violent or continuously violent behavior including behavior that results in the destruction of property or demonstrates an intent to cause physical harm to him/herself or others (15 CCR 1053; 15 CCR 1055).
- (h) Any individual who claims to have, is known to be afflicted with, or displays symptoms of any communicable disease that poses an unreasonable exposure risk (15 CCR 1051).
- (i) Any individual with a prosthetic or orthopedic device where removal of the device would be injurious to his/her health or safety.
- (j) Any individual who is obviously developmentally disabled (15 CCR 1057).
- (k) Any individual who appears to be a danger to him/herself or others due to a mental disorder, or who appears gravely disabled (15 CCR 1052).
- (l) Any individual who needs restraint beyond the use of handcuffs or shackles for security reasons (15 CCR 1058).
- (m) Any individual obviously suffering from drug or alcohol withdrawal (15 CCR 1213).

Investigators taking custody of a person who exhibits any of the above conditions should notify a supervisor of the situation. These individuals should not be in temporary custody at the Amador County District Attorney's Office unless they have been evaluated by a qualified medical or mental health professional, as appropriate for the circumstances.

900.3.2 SUPERVISION IN TEMPORARY CUSTODY

An authorized bureau member capable of supervising shall be present at all times when an individual is held in temporary custody. The member responsible for supervising should not have other duties that could unreasonably conflict with his/her supervision. Any individual in custody must be able to summon the supervising member if needed. If the person in custody is deaf or hard of hearing or cannot speak, accommodations shall be made to provide this ability (15 CCR 1027).

At least one female bureau member should be present when a female adult is in temporary custody. In the event that none is readily available, the female in custody should be transported to another facility or released pursuant to another lawful process (15 CCR 1027).

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Absent exigent circumstances, such as a medical emergency or a violent subject, members should not enter the cell of a person of the opposite sex unless a member of the same sex as the person in custody is present (Penal Code § 4021).

No individual in custody shall be permitted to supervise, control or exert any authority over other individuals in custody.

900.3.3 ENTRY RESTRICTIONS

Entry into any location where a person is held in custody should be restricted to:

- (a) Authorized members entering for official business purposes.
- (b) Emergency medical personnel when necessary.
- (c) Any other person authorized by the Supervising Investigator.

When practicable, more than one authorized member should be present for entry into a location where a person is held in custody for security purposes and to witness interactions.

900.4 INITIATING TEMPORARY CUSTODY

The investigator responsible for an individual in temporary custody should evaluate the person for any apparent chronic illness, disability, vermin infestation, possible communicable disease or any other potential risk to the health or safety of the individual or others. The investigator should specifically ask if the individual is contemplating suicide and evaluate him/her for obvious signs or indications of suicidal intent.

The receiving investigator should ask the arresting investigator if there is any statement, indication or evidence surrounding the individual's arrest and transportation that would reasonably indicate the individual is at risk for suicide or critical medical care. If there is any suspicion that the individual may be suicidal, he/she shall be transported to the County jail or the appropriate mental health facility.

The investigator should promptly notify the Supervising Investigator of any conditions that may warrant immediate medical attention or other appropriate action. The Supervising Investigator shall determine whether the individual will be placed in a cell, immediately released or transported to jail or other facility.

900.5 SAFETY, HEALTH AND OTHER PROVISIONS

900.5.1 MEDICAL CARE

First-aid equipment and basic medical supplies should be available to bureau members (15 CCR 1220). At least one member who has current certification in basic first aid and CPR should be on-duty at all times.

Should a person in custody be injured or become ill, appropriate medical assistance should be sought. A supervisor should meet with those providing medical aid at the facility to allow access to the person. Members shall comply with the opinion of medical personnel as to whether an

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individual in temporary custody should be transported to the hospital. If the person is transported while still in custody, he/she will be accompanied by an investigator.

Those who require medication while in temporary custody should not be at the Amador County District Attorney's Office. They should be released or transferred to another facility as appropriate.

900.5.2 ORTHOPEDIC OR PROSTHETIC APPLIANCE

Subject to safety and security concerns, individuals shall be permitted to retain an orthopedic or prosthetic appliance. However, if the member supervising the individual has probable cause to believe the possession of the appliance presents a risk of bodily harm to any person, the appliance may be removed from the individual unless its removal would be injurious to his/her health or safety.

Whenever a prosthetic or orthopedic appliance is removed, the Supervising Investigator shall be promptly apprised of the reason. It shall be promptly returned when it reasonably appears that any risk no longer exists (Penal Code § 2656; 15 CCR 1207).

900.5.3 RELIGIOUS ACCOMMODATION

Subject to available resources, safety and security, the religious beliefs and needs of all individuals in custody should be reasonably accommodated (15 CCR 1072). Requests for religious accommodation should generally be granted unless there is a compelling security or safety reason and denying the request is the least restrictive means available to ensure security or safety. The responsible supervisor should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves or simple head coverings for religious reasons should generally be accommodated absent unusual circumstances. Head coverings shall be searched before being worn.

Individuals wearing headscarves or other approved coverings shall not be required to remove them while in the presence of or while visible to the opposite sex if they so desire. Religious garments that substantially cover the individual's head and face may be temporarily removed during the taking of any photographs.

900.5.4 FIREARMS AND OTHER SECURITY MEASURES

Firearms and other weapons and control devices shall not be permitted in secure areas where individuals are in custody or are processed. They should be properly secured outside of the secure area. An exception may occur only during emergencies, upon approval of a supervisor.

900.6 SUICIDE ATTEMPT, DEATH, OR SERIOUS INJURY

The Investigations Bureau Chief will ensure procedures are in place to address any suicide attempt, death or serious injury of any individual in temporary custody at the Amador County District Attorney's Office. The procedures should include the following:

- (a) Immediate request for emergency medical assistance if appropriate

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- (b) Immediate notification of the Supervising Investigator or Chief Investigator.
- (c) Notification of the spouse, next of kin or other appropriate person
- (d) Notification of the appropriate prosecutor
- (e) Notification of the County Counsel
- (f) Notification of the Coroner
- (g) Evidence preservation
- (h) In-custody death reviews (15 CCR 1046)
- (i) Notification to the Attorney General within 10 days of any death in custody including any reasonably known facts concerning the death (Government Code § 12525)

Chapter 10 - Personnel

Recruitment and Selection

1000.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Amador County District Attorney's Office Bureau of Investigation and that are promulgated and maintained by the Department of Human Resources.

1000.2 POLICY

In accordance with applicable federal, state, and local law, the Amador County District Attorney's Office Bureau of Investigation provides equal opportunities for applicants and employees regardless of actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law. The Bureau does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

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

1000.3 RECRUITMENT

The Bureau Chief should employ a comprehensive recruitment and selection strategy to recruit and select employees from a qualified and diverse pool of candidates.

The strategy should include:

- (a) Identification of racially and culturally diverse target markets.
- (b) Use of marketing strategies to target diverse applicant pools.
- (c) Expanded use of technology and maintenance of a strong internet presence. This may include an interactive bureau website and the use of bureau-managed social networking sites, if resources permit.
- (d) Expanded outreach through partnerships with media, community groups, citizen academies, local colleges, universities, and the military.
- (e) Employee referral and recruitment incentive programs.
- (f) Consideration of shared or collaborative regional testing processes.

The Bureau Chief shall avoid advertising, recruiting and screening practices that tend to stereotype, focus on homogeneous applicant pools or screen applicants in a discriminatory manner.

The Bureau should strive to facilitate and expedite the screening and testing process, and should periodically inform each candidate of his/her status in the recruiting process.

Recruitment and Selection

1000.4 SELECTION PROCESS

The Bureau shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Bureau should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
 - 1. The personnel records of any applicant with prior peace officer experience in this state shall be requested from the appropriate law enforcement agency and reviewed prior to extending an offer of employment (Penal Code § 832.12).
 - 2. This includes review of prior law enforcement employment information maintained by POST (Penal Code § 13510.9).
- (b) Driving record
- (c) Reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state, and federal criminal history record checks
- (h) Lie detector test (when legally permissible) (Labor Code § 432.2)
- (i) Medical and psychological examination (may only be given after a conditional offer of employment)
- (j) Review board or selection committee assessment

1000.4.1 VETERAN'S PREFERENCE

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran's preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

1000.5 BACKGROUND INVESTIGATION

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

Recruitment and Selection

The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

1000.5.1 BACKGROUND INVESTIGATION UPDATE

A background investigation update may, at the discretion of the Chief Investigator, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Amador County District Attorney's Office Bureau of Investigation, or who is an interim police chief meeting the requirements contained in 11 CCR 1953(f).

1000.5.2 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

1000.5.3 STATE NOTICES

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

1000.5.4 REVIEW OF SOCIAL MEDIA SITES

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

The Bureau Chief should consider utilizing the services of an appropriately trained and experienced third party to conduct open source, internet-based searches, and/or review information from social media sites to ensure that:

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

Regardless of whether a third party is used, the Bureau Chief should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

1000.5.5 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions.

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The report and all supporting documentation shall be included in the candidate's background investigation file (11 CCR 1953).

1000.5.6 RECORDS RETENTION

The background report and all supporting documentation shall be maintained for a minimum of four years and in accordance with the established records retention schedule (Government Code § 12946; 11 CCR 1953).

1000.6 DISQUALIFICATION GUIDELINES

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

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

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

1000.7 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; Penal Code § 13510.1; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Bureau and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Department of Human Resources should maintain validated standards for all positions.

Recruitment and Selection

1000.7.1 STANDARDS FOR INVESTIGATORS

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

- (a) Free of any felony convictions
- (b) Citizen of the United States, or permanent resident eligible for and has applied for citizenship
- (c) At least 21 years of age except as provided by Government Code § 1031.4
- (d) Fingerprinted for local, state, and national fingerprint check
- (e) Good moral character as determined by a thorough background investigation (11 CCR 1953)
- (f) High school graduate, passed the GED or other high school equivalency test, or obtained a two-year, four-year, or advanced degree from an accredited or approved institution
- (g) Free from any physical, emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)
- (h) 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)
- (i) POST certification that has not been revoked, denied, or voluntarily surrendered pursuant to Penal Code § 13510.8(f)
- (j) Not identified in the National Decertification Index of the International Association of Directors of Law Enforcement Standards and Training or similar federal government database that reflects revoked certification for misconduct or reflects misconduct that would result in a revoked certification in California.

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

1000.8 PROBATIONARY PERIODS

The Bureau Chief should coordinate with the Amador County Department of Human Resources to identify positions subject to probationary periods and procedures for:

- (a) Appraising performance during probation.
- (b) Assessing the level of performance required to complete probation.
- (c) Extending probation.
- (d) Documenting successful or unsuccessful completion of probation.

Evaluation of Employees

1001.1 PURPOSE AND SCOPE

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

1001.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation 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 Bureau evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

1001.3 EVALUATION PROCESS

Evaluation reports will cover a specific period of time and should be based on documented performance during that period. Evaluation reports will be completed by each employee's immediate supervisor. Other supervisors directly familiar with the employee's performance during the rating period should be consulted by the immediate supervisor for their input.

All sworn supervisory personnel shall attend an approved supervisory course that includes training on the completion of performance evaluations within one year of the supervisory appointment.

Each supervisor should discuss the tasks of the position, standards of performance expected and the evaluation criteria with each employee at the beginning of the rating period. Supervisors should document this discussion in the prescribed manner.

Assessment of an employee's job performance is an ongoing process. Continued coaching and feedback provides supervisors and employees with opportunities to correct performance issues as they arise.

Non-probationary employees demonstrating substandard performance shall be notified in writing of such performance as soon as possible in order to have an opportunity to remediate the issues. Such notification should occur at the earliest opportunity, with the goal being a minimum of 90 days written notice prior to the end of the evaluation period.

Evaluation of Employees

Employees who disagree with their evaluation and who desire to provide a formal response or a rebuttal may do so in writing in the prescribed format and time period.

1001.4 FULL TIME PROBATIONARY PERSONNEL

Non-sworn personnel are on probation for 12 months before being eligible for certification as permanent employees. Non-sworn personnel who are already permanent employees and receive a promotion are on probation for 6 months. An evaluation is completed quarterly for all full-time non-sworn personnel during the probationary period.

Sworn personnel are on probation for 18 months before being eligible for certification as permanent employees. Sworn personnel who are already permanent employees and receive a promotion are on probation for 12 months. An evaluation is completed quarterly for full-time sworn personnel during the probationary period.

1001.5 FULL-TIME PERMANENT STATUS PERSONNEL

Permanent employees are subject to two types of performance evaluations:

Regular - An Employee Performance Evaluation shall be completed once each year by the employee's immediate supervisor on the anniversary of the employee's date of hire except for employees who have been promoted in which case an Employee Performance Evaluation shall be completed on the anniversary of the employee's date of last promotion.

Special - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (action plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package.

1001.5.1 RATINGS

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

Outstanding - Is actual performance well beyond that required for the position. It is exceptional performance, definitely superior or extraordinary.

Exceeds Standards - Represents performance that is better than expected of a fully competent employee. It is superior to what is expected, but is not of such rare nature to warrant outstanding.

Meets Standards - Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

Evaluation of Employees

Needs Improvement - Is a level of performance less than that expected of a fully competent employee and less than standards required of the position. A needs improvement rating must be thoroughly discussed with the employee.

Unsatisfactory - Performance is inferior to the standards required of the position. It is very inadequate or undesirable performance that cannot be tolerated.

Space for written comments is provided at the end of the evaluation in the rater comments section. This section allows the rater to document the employee's strengths, weaknesses, and suggestions for improvement. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section.

1001.6 EVALUATION INTERVIEW

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

1001.6.1 DISCRIMINATORY HARASSMENT FORM

At the time of each employee's annual evaluation, the reviewing supervisor shall require the employee to read the County and Bureau harassment and discrimination policies. Following such policy review, the supervisor shall provide the employee a form to be completed and returned by the employee certifying the following:

- (a) That the employee understands the harassment and discrimination policies.
- (b) Whether any questions the employee has have been sufficiently addressed.
- (c) That the employee knows how and where to report harassment policy violations.
- (d) Whether the employee has been the subject of, or witness to, any conduct that violates the discrimination or harassment policy which has not been previously reported.

The completed form should be returned to the supervisor (or other authorized individual if the employee is uncomfortable returning the form to the presenting supervisor) within one week.

The employee's completed answers shall be attached to the evaluation. If the employee has expressed any questions or concerns, the receiving supervisor or other authorized individual shall insure that appropriate follow up action is taken.

Evaluation of Employees

1001.7 EVALUATION REVIEW

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the rater's supervisor (Bureau Chief). The Bureau Chief shall review the evaluation for fairness, impartiality, uniformity, and consistency. The Bureau Chief shall evaluate the supervisor on the quality of ratings given.

1001.8 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the employee's personnel file in the office of the Chief Investigator 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.

Special Assignments and Promotions

1002.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making special assignments within the Amador County District Attorney's Office Bureau of Investigation.

1002.2 PROMOTIONAL REQUIREMENTS

Requirements and information regarding any promotional process are available at the Amador County Department of Human Resources.

1002.3 POLICY

The Amador County District Attorney's Office Bureau of Investigation determines assignments and promotions in a non-discriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments and promotions are made by the Chief Investigator.

1002.4 SPECIAL ASSIGNMENT POSITIONS

The following positions are considered special assignments and not promotions:

- (a) Narcotics/ACCNET Investigator
- (b) Insurance Fraud Investigator
- (c) Prison Crimes Investigator
- (d) Rangemaster
- (e) Welfare Fraud Investigator
- (f) Computer Crimes/Forensics Investigator
- (g) Crime Scene Investigator

1002.4.1 GENERAL REQUIREMENTS

The following requirements should be considered when selecting a candidate for a special assignment:

- (a) Years of relevant experience
- (b) Possession of or ability to obtain any certification required by POST or law
- (c) Exceptional skills, experience, or abilities related to the special assignment

1002.4.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment:

- (a) Expressed an interest in the assignment.
- (b) Demonstrates the following traits:
 - 1. Emotional stability and maturity
 - 2. Stress tolerance

Special Assignments and Promotions

3. Sound judgment and decision-making
4. Personal integrity and ethical conduct
5. Leadership skills
6. Initiative
7. Adaptability and flexibility
8. Ability to conform to bureau goals and objectives in a positive manner

1002.4.3 SELECTION PROCESS

The selection process for special assignments will include an administrative evaluation by the Chief Investigator.

Grievance Procedure

1003.1 PURPOSE AND SCOPE

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

1003.1.1 GRIEVANCE DEFINED

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

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

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

Specifically outside the category of grievance are complaints related to allegations of discrimination or harassment subject to the Discriminatory Harassment Policy. Also outside the category of grievances are personnel complaints regarding any allegation of misconduct or improper job performance against any bureau employee that, if true, would constitute a violation of bureau policy, federal, state, or local law as set forth in the Personnel Complaint Policy.

1003.2 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 Supervising Investigator.
- (b) If after a reasonable amount of time, generally seven days, the grievance cannot be settled by the Supervising Investigator, the employee may request an interview with the Chief Investigator.
- (c) If a successful resolution is not found with the Chief Investigator, the employee may request a meeting with the Chief Investigator.
- (d) If the employee and the Chief Investigator are unable to arrive at a mutual solution, then the employee shall proceed as follows:
 1. Submit in writing a written statement of the grievance and deliver one copy to the Chief Investigator and another copy to the Supervising Investigator and include the following information:

Grievance Procedure

- (a) The basis for the grievance (i.e., what are the facts of the case?).
- (b) Allegation of the specific wrongful act and the harm done.
- (c) The specific policies, rules or regulations that were violated.
- (d) What remedy or goal is being sought by this grievance.
- (e) The employee shall receive a copy of the acknowledgment signed by the supervisor including the date and time of receipt.
- (f) The Chief Investigator will receive the grievance in writing. The Chief Investigator and the District Attorney will review and analyze the facts or allegations and respond to the employee within 14 calendar days. The response will be in writing, and will affirm or deny the allegations. The response shall include any remedies if appropriate. The decision of the District Attorney is considered final.

1003.3 EMPLOYEE REPRESENTATION

Employees are entitled to have representation during the grievance process. The representative may be selected by the employee from the appropriate employee bargaining group.

1003.4 GRIEVANCE RECORDS

At the conclusion of the grievance process, all documents pertaining to the process shall be forwarded to Administration for inclusion into a secure file for all written grievances. A second copy of the written grievance will be maintained by the County Executive's office to monitor the grievance process.

1003.5 GRIEVANCE AUDITS

The Supervising Investigator shall perform an annual audit of all grievances filed the previous calendar year to evaluate whether or not any policy/procedure changes or training may be appropriate to avoid future filings of grievances. The Supervising Investigator shall record these findings in a confidential and generic memorandum to the Chief Investigator without including any identifying information from any individual grievance. If the audit identifies any recommended changes or content that may warrant a critical revision to this policy manual, the Supervising Investigator should promptly notify the Chief Investigator.

Anti-Retaliation

1004.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

1004.2 POLICY

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

1004.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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1004.3.1 RETALIATION PROHIBITED FOR REPORTING VIOLATIONS

An investigator shall not be retaliated against for reporting a suspected violation of a law or regulation of another investigator to a supervisor or other person in the Bureau who has the authority to investigate the violation (Government Code § 7286(b)).

1004.4 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, District Attorney, or the County Director of Human Resources.

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.

1004.5 SUPERVISOR RESPONSIBILITIES

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief Investigator via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.

Anti-Retaliation

- (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.

1004.6 CHIEF INVESTIGATOR RESPONSIBILITIES

The Chief Investigator should communicate the prohibition against retaliation.

The Chief Investigator shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

1004.7 WHISTLE-BLOWING

California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

- (a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member's supervisor or any other member with the authority to investigate the reported violation.
- (b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.
- (c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.
- (d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority, or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.
- (e) Are family members of a person who has engaged in any protected acts described above.

Members are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors should refer the complaint to the Chief Investigator and/or Supervising Investigator for investigation pursuant to the Personnel Complaints Policy.

Anti-Retaliation

1004.7.1 DISPLAY OF WHISTLE-BLOWER LAWS

The Bureau shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

1004.8 RECORDS RETENTION AND RELEASE

The Chief Investigator shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

1004.9 TRAINING

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

Reporting of Employee Convictions

1005.1 PURPOSE AND SCOPE

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

1005.2 DOMESTIC VIOLENCE CONVICTIONS, OUTSTANDING WARRANTS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All 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.

1005.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty, or nolo contendere plea.

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

Outstanding warrants as provided in Penal Code § 29805 also place restrictions on a member's ability to possess a firearm.

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 bureau may be inherently in conflict with law enforcement duties and the public trust.

1005.4 REPORTING PROCEDURE

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

All members and all retired investigators with an identification card issued by the Bureau shall further promptly notify their immediate supervisor (or the Chief Investigator in the case of retired

Reporting of Employee Convictions

investigators) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order or becomes the subject of an outstanding warrant.

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.

1005.5 PROCEDURE FOR RELIEF

Pursuant to Penal Code § 29855, a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 29855 will not relieve one of the restrictions imposed by federal law. Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Employees 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 or ammunition as a part of the individual's employment. Relief from any domestic violence or other restriction shall also be pursued through the employee's own resources and on the employee's own time.

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned, or disciplined. The Bureau 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.

1005.5.1 NOTIFICATION REQUIREMENTS

The Chief investigator shall submit within 30 days of final disposition a notice to the Commission on Peace Officer Standards and Training (POST) of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this bureau or any former peace officer if this bureau was responsible for the investigation (11 CCR 1003).

The Chief Investigator shall submit within 30 days a notice to POST of any appointment, termination, reinstatement, name change, or status change regarding any peace officer, reserve peace officer, public safety dispatcher, and records supervisor employed by this bureau (11 CCR 1003).

Drug- and Alcohol-Free Workplace

1006.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

1006.2 POLICY

It is the policy of this bureau to provide a drug- and alcohol-free workplace for all members. This policy is in addition to the Amador County policy regarding a Drug- and Alcohol-Free Workplace.

1006.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on bureau time can endanger the health and safety of bureau members and the public.

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

1006.3.1 USE OF MEDICATIONS

Members should not use any medications that will impair their ability to safely and completely perform their duties. Any member who is medically required or has a need to take any such medication shall report that need to the member's immediate supervisor prior to commencing any on-duty status.

No member shall be permitted to work or drive a vehicle owned or leased by the Amador County District Attorney's Office while taking any medication that has the potential to impair the member's abilities, without a written release from the member's physician.

1006.3.2 MEDICAL CANNABIS

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

1006.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on Amador County District Attorney's Office premises or on Amador County District Attorney's Office time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Drug- and Alcohol-Free Workplace

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

1006.5 EMPLOYEE ASSISTANCE PROGRAM

There may be available a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Department of Human Resources, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

1006.6 WORK RESTRICTIONS

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

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

1006.7 SCREENING TESTS

A supervisor may require an employee to submit to a screening under any of the following circumstances:

- (a) The supervisor reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing the employee's ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm in the performance of the employee's duties (excluding training or authorized euthanizing of an animal).
- (c) The employee discharges a firearm issued by the Bureau while off-duty, resulting in injury, death, or substantial property damage.
- (d) The employee drives a motor vehicle in the performance of the employee's duties and becomes involved in an incident that results in bodily injury, death, or substantial damage to property.

Drug- and Alcohol-Free Workplace

1006.7.1 SUPERVISOR RESPONSIBILITIES

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

- (a) The test will be given to detect either alcohol or drugs, or both.
- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

1006.7.2 DISCIPLINE

An employee may be subject to disciplinary action if the employee:

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that the employee took the controlled substance as directed, pursuant to a current and lawful prescription issued in the employee's name.

1006.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT

No later than 30 days following notice of any drug statute conviction for a violation occurring in the workplace involving a member, the Amador County District Attorney's Office 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).

1006.9 CONFIDENTIALITY

The Bureau recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained in the member's confidential medical file in accordance with the Personnel Records Policy.

Sick Leave

1007.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the County personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.), the California Family Rights Act, leave for victims of crime or abuse, or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

1007.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to provide eligible employees with a sick leave benefit.

1007.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see Outside Employment Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

1007.3.1 NOTIFICATION

All members should notify the Supervising Investigator or Chief Investigator as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor (Labor Code § 246).

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Amador County District Attorney's Office with no less than 30 days' notice of the impending absence (Labor Code § 246).

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

Sick Leave

1007.4 EXTENDED ABSENCE

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days after the first three days of paid sick leave are used in a 12-month period.

1007.5 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Department of Human Resources as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
 1. Negatively affected the member's performance or ability to complete assigned duties.
 2. Negatively affected bureau operations.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

1007.6 REQUIRED NOTICES

The Director of Human Resources shall ensure:

- (a) Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.
- (b) A poster is displayed in a conspicuous place for employees to review that contains information on paid sick leave as provided in Labor Code § 247.

Communicable Diseases

1008.1 PURPOSE AND SCOPE

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

1008.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

1008.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

1008.3 EXPOSURE CONTROL OFFICER

The Supervising Investigator will act 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 bureau members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
 1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).

Communicable Diseases

2. Bloodborne pathogen mandates including (8 CCR 5193):
 - (a) Sharps injury log.
 - (b) Needleless systems and sharps injury protection.
 3. Airborne transmissible disease mandates including (8 CCR 5199):
 - (a) Engineering and work practice controls related to airborne transmissible diseases.
 - (b) Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.
 4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).
 5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease and that the member is notified of any exposure as required by Health and Safety Code § 1797.188.
 6. Informing members of the provisions of Health and Safety Code § 1797.188 (exposure to communicable diseases and notification).
- (f) Provisions for acting as the designated officer liaison with health care facilities regarding communicable disease or condition exposure notification. The designated officer should coordinate with other bureau members to fulfill the role when not available. The designated officer shall ensure that the name, title and telephone number of the designated officer is posted on the Bureau website (Health and Safety Code § 1797.188).

The 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).

1008.4 EXPOSURE PREVENTION AND MITIGATION

1008.4.1 GENERAL PRECAUTIONS

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

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or bureau vehicles, as applicable.
- (b) Wearing bureau-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.

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

1008.4.2 IMMUNIZATIONS

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (8 CCR 5193).

1008.5 POST EXPOSURE

1008.5.1 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

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

1008.5.2 REPORTING REQUIREMENTS

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

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

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

The supervisor shall advise the member that disclosing the identity and/or infectious status of a source to the public or to anyone who is not involved in the follow-up process is prohibited. The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

1008.5.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

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

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

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

1008.5.4 COUNSELING

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

1008.5.5 SOURCE TESTING

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

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).

Communicable Diseases

- (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.

The ECO should seek the consent of the individual for testing and consult the County Counsel to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

1008.6 CONFIDENTIALITY OF REPORTS

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

1008.7 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (8 CCR 5193):

- (a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

Smoking and Tobacco Use

1009.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Amador County District Attorney's Office Bureau of Investigation facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

1009.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Bureau and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all bureau facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5).

1009.3 SMOKING AND TOBACCO USE

Smoking and tobacco use by members is prohibited anytime members are in public view representing the Amador County District Attorney's Office Bureau of Investigation.

It shall be the responsibility of each member to ensure that no person under his/her supervision smokes or uses any tobacco product inside County facilities and vehicles.

1009.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit or operable window of any public building (including any bureau facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement or any other purpose (Government Code § 7596 et seq.).

1009.4.1 NOTICE

The Chief Investigator or the authorized designee should ensure that proper signage is posted at each entrance to the Bureau facility (Labor Code § 6404.5).

Personnel Complaints

1010.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Amador County District Attorney's Office Bureau of Investigation. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

1010.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation takes seriously all complaints regarding the service provided by the Bureau and the conduct of its members.

The Bureau will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this bureau to ensure that the community can report misconduct without concern for reprisal or retaliation.

1010.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of bureau policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate bureau policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Bureau.

1010.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Chief Investigator is satisfied that appropriate action has been taken by the Supervising Investigator.

Formal - A matter in which the Chief Investigator determines that further action is warranted. Such complaints may be investigated by the Supervising Investigator, the Chief Investigator, or an outside agency, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the Chief Investigator, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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1010.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any bureau member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

1010.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

1010.4.1 COMPLAINT FORMS

Personnel complaint forms will be available at the public counter in the lobby of the District Attorney's Office facility..

1010.4.2 ACCEPTANCE

All complaints will be courteously accepted by any District Attorney's Office employee

and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs, or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of the complaining party's statement at the time it is filed with the Bureau (Penal Code § 832.7).

1010.4.3 AVAILABILITY OF WRITTEN PROCEDURES

The Bureau shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

1010.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

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1010.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

1010.6.1 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.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - (a) The original complaint form will be directed to the Chief Investigator, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
 - (b) In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, the Supervising Investigator shall orally report the matter to the Chief Investigator..
- (b) Responding to all complainants in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - (a) Follow-up contact with the complainant should be made within 24 hours of the Bureau receiving the complaint.
 - (b) If the matter is resolved and no further action is required, the Supervising Investigator will note the resolution on a complaint form and forward the form to the Chief Investigator.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Chief Investigator and the District Attorney are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Department of Human Resources and the Chief Investigator for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Chief Investigator, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.

Personnel Complaints

- (h) Investigating a complaint as follows:
 - (a) Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - (b) When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

1010.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by the Chief Investigator and/or Supervising Investigator, or an outside agency, 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 Amador County District Attorney's Office Bureau of Investigation or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the investigator in charge of the investigation, the interviewing officers and all other persons to be present during the interview.
- (e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - (a) A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

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- (b) No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.
- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any investigator solely because the investigator has been placed on a prosecutor's *Brady* list or the name of the investigator may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the investigator has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

1010.6.3 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.

Personnel Complaints

1010.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve bureau members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - A final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304 and Government Code § 3304.5 that the actions of an investigator were found to violate law or bureau policy (Penal Code § 832.8).

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

1010.6.5 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.

1010.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation may provide the complainant with periodic updates on the status of the investigation, as appropriate.

1010.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and county 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).

Personnel Complaints

1010.7.1 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

1010.8 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 District Attorney's Office, the Chief Investigator, or the authorized designee, may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any bureau badge, identification, assigned weapons and any other bureau equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

1010.9 CRIMINAL INVESTIGATION

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief Investigator shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief Investigator may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The Amador County District Attorney's Office Bureau of Investigation may release information concerning the arrest or detention of any member, including an investigator, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

1010.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation not conducted by the Chief Investigator, an investigation report should be forwarded to the Chief Investigator. The Chief Investigator may accept or modify any classification or recommendation for disciplinary action.

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1010.10.1 CHIEF INVESTIGATOR RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Chief Investigator of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Chief Investigator may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the District Attorney, the Chief Investigator may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the District Attorney, the Chief Investigator shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

1010.10.2 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 Chief Investigator shall provide the member with a pre-disciplinary procedural due process hearing (*Skelly*) by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief Investigator shall also provide the member with:

- (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.
 - (a) Upon a showing of good cause by the member, the District Attorney may grant a reasonable extension of time for the member to respond.
 - (b) If the member elects to respond orally, the presentation may be recorded by the District Attorney's Office. 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.

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1010.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief Investigator or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(f)).

1010.10.4 NOTICE REQUIREMENTS

The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(f)).

1010.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the District Attorney after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the District Attorney to consider.
- (d) In the event that the District Attorney elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the District Attorney on the limited issues of information raised in any subsequent materials.

1010.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline (Penal Code § 13510.8).

1010.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding and/or personnel rules.

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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).

1010.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary Investigator subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the District Attorney or Chief Investigator for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the District Attorney shall be final.

1010.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Records Policy.

1010.16 REQUIRED REPORTING TO POST

The Chief Investigator or the authorized designee shall notify POST on the appropriate POST form within 10 days of certain investigator personnel events, including but not limited to (Penal Code § 13510.9):

- (a) Termination or separation from employment or appointment. Separation from employment or appointment includes any involuntary termination, resignation, or retirement.
 1. A POST affidavit-of-separation form shall be executed and maintained by the Bureau and submitted to POST as required by Penal Code § 13510.9.
- (b) Events that could affect an investigator's POST certification, such as:
 1. Complaints, charges, or allegations of misconduct
 2. Findings of civilian review boards
 3. Final dispositions of any investigations

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4. Civil judgments or court findings based on conduct, or settlement of a civil claim against an investigator or the Amador County District Attorney's Office Bureau of Investigation based on allegations of conduct by an investigator

The Chief Investigator or the authorized designee shall be responsible for providing POST access to or duplication of investigation documentation (e.g., physical or documentary evidence, witness statements, analysis, conclusions) for up to two years after reporting of the disposition of an investigation (Penal Code § 13510.9).

Seat Belts

1011.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all members operating or riding in bureau vehicles (Vehicle Code § 27315.5).

1011.1.1 DEFINITIONS

Definitions related to this policy include:

Child restraint system - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

1011.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

1011.3 WEARING OF SAFETY RESTRAINTS

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

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

1011.4 TRANSPORTING CHILDREN

Children under the age of 8 shall be transported in compliance with California's child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

Seat Belts

1011.5 TRANSPORTING SUSPECTS, PRISONERS OR ARRESTEES

Suspects, prisoners and arrestees should be in a seated position and secured in the rear seat of any bureau vehicle with a prisoner restraint system or, when a prisoner restraint system is not available, by seat belts provided by the vehicle manufacturer. The prisoner restraint system is not intended to be a substitute for handcuffs or other appendage restraints.

Prisoners in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

1011.6 INOPERABLE SEAT BELTS

Bureau vehicles shall not be operated when the seat belt in the driver's position is inoperable. Persons shall not be transported in a seat in which the seat belt is inoperable.

Bureau vehicle seat belts shall not be modified, removed, deactivated or altered in any way, except by the vehicle maintenance and repair staff, who shall do so only with the express authorization of the Chief Investigator.

Members who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

1011.7 VEHICLES MANUFACTURED WITHOUT SEAT BELTS

Vehicles manufactured and certified for use without seat belts or other restraint systems are subject to the manufacturer's operator requirements for safe use.

1011.8 VEHICLE AIRBAGS

In all vehicles equipped with airbag restraint systems, the system will not be tampered with or deactivated, except when transporting children as written elsewhere in this policy. All equipment installed in vehicles equipped with airbags will be installed as per the vehicle manufacturer specifications to avoid the danger of interfering with the effective deployment of the airbag device.

Body Armor

1012.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

1012.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

1012.3 ISSUANCE OF BODY ARMOR

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

The 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.

1012.3.1 USE OF SOFT BODY ARMOR

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

- (a) Investigators shall only wear agency-approved body armor.
- (b) Investigators shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Investigators may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
- (d) Body armor shall be worn when an investigator is taking part in Bureau 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.

1012.3.2 INSPECTIONS OF BODY ARMOR

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

Body Armor

1012.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

1012.4 RANGEMASTER RESPONSIBILITIES

The Rangemaster should:

- (a) Monitor technological advances in the body armor industry for any appropriate changes to Bureau approved body armor.
- (b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
- (c) Provide training that educates investigators about the safety benefits of wearing body armor.

Personnel Records

1013.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

1013.2 POLICY

It is the policy of this bureau to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7).

1013.3 BUREAU FILE

The bureau file shall be maintained as a record of a person's employment/appointment with this bureau. The bureau file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.
- (d) Original performance evaluations. These should be permanently retained.
- (e) Discipline records, including copies of sustained personnel complaints (see the Personnel Complaints Policy).
 - 1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least four years (Government Code § 12946).
 - 2. Disciplinary action resulting from a sustained civilian's complaint involving misconduct shall be maintained pursuant to the established records retention schedule and at least 15 years (Penal Code § 832.5).
 - 3. A civilian's complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).
- (f) Adverse comments such as supervisor notes or memos may be retained in the bureau file after the member has had the opportunity to read and initial the comment (Government Code § 3305).
 - 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).
 - 2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).

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3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment and the member should sign or initial the noted refusal. Such a refusal, however, shall not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).
- (g) Commendations and awards.
 - (h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

1013.4 SUPERVISOR'S WORK FILE

Supervisor's work files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The supervisor's work file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code § 3305 and Government Code § 3306.

1013.5 TRAINING FILE

An individual training file shall be maintained by the Chief Investigator for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Supervising Investigator or Chief Investigator with evidence of completed training/education in a timely manner.
- (b) The Supervising Investigator or Chief Investigator shall ensure that copies of such training records are placed in the member's training file.

1013.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Chief Investigator or Supervising Investigator. Access to these files may only be approved by the Chief Investigator.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

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Investigation files arising out of sustained civilian's complaints involving misconduct shall be maintained pursuant to the established records retention schedule and for a period of at least 15 years. Investigations that resulted in other than a sustained finding may not be used by the Bureau to adversely affect an employee's career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least four years (Government Code § 12946).

Investigation files arising out of a civilian complaint involving misconduct that was not sustained shall be maintained pursuant to the established records retention schedule and for at least five years (Penal Code § 832.5).

1013.7 MEDICAL FILE

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.
- (e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

1013.8 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the County Executive, County Counsel or other attorneys or representatives of the County in connection with official business.

1013.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Chief Investigator.

Upon receipt of any such request, the Chief Investigator shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

Personnel Records

The Chief Investigator shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

1013.8.2 RELEASE OF PERSONNEL INFORMATION

Personnel records shall not be disclosed except as allowed by law (Penal Code § 832.7; Evidence Code § 1043) (See also Records Maintenance and Release Policy).

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this Amador County District Attorney's Office may be guilty of a misdemeanor (Penal Code § 146e).

The Amador County District Attorney's Office may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7).

1013.8.3 RELEASE OF LAW ENFORCEMENT GANG INFORMATION

Information relating to the termination of an investigator from this bureau for participation in a law enforcement gang shall be disclosed to another law enforcement agency that is conducting a pre-employment background investigation except where specifically prohibited by law (Penal Code § 13670).

1013.9 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF INVESTIGATORS

Personnel records and records related to certain incidents, complaints, and investigations of investigators shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The Custodian of Records should work as appropriate with the Chief Investigator in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(3)):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.

Personnel Records

- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an investigator in connection with an incident, whether the investigator's action was consistent with law and bureau policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(8) or other law, the following records (hereinafter qualifying records) shall be made available for public inspection no later than 45 days from the date of a request (Penal Code § 832.7(b)(1)):

- (a) Records relating to the report, investigation, or findings of:
 1. The discharge of a firearm at another person by an investigator.
 2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by an investigator.
 3. A sustained finding involving a complaint that alleges unreasonable or excessive force.
 4. A sustained finding that an investigator failed to intervene against another investigator using force that is clearly unreasonable or excessive.
- (b) Records relating to an incident where a sustained finding was made by the Bureau or oversight agency regarding:
 1. An investigator engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
 2. Dishonesty of an investigator relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another investigator, including but not limited to any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.
 3. An investigator engaged in conduct including but not limited to verbal statements, writings, online posts, recordings, and gestures involving prejudice or discrimination against a person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.
 4. An investigator made an unlawful arrest or conducted an unlawful search.

Qualifying records will be made available regardless of whether the investigator resigns before the Bureau or an oversight agency concludes its investigation (Penal Code § 832.7(b)(3)).

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A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(4)).

When an investigation involves multiple investigators, the Bureau shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an investigator unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(5). However, factual information about the action of the investigator during an incident or the statements of an investigator shall be released if the statements are relevant to a finding of the qualified allegation against another investigator that is subject to release (Penal Code § 832.7(b)(5)).

1013.9.1 REDACTION

The Custodian of Records, in consultation with the Chief Investigator or authorized designee, shall redact the following portions of qualifying records made available for release (Penal Code § 832.7(b)(6)):

- (a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of investigators
- (b) Information that would compromise the anonymity of whistleblowers, complainants, victims, and witnesses
- (c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about possible misconduct and use of force
- (d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the investigator or another person

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(7)).

1013.9.2 DELAY OF RELEASE

The Custodian of Records should consult with the Chief Investigator to determine whether to delay disclosure of qualifying records due to any of the following conditions (Penal Code § 832.7):

- (a) Active criminal investigations
 1. Disclosure may be delayed 60 days from the date the misconduct or use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.
 2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an investigator or against someone other than an investigator who engaged in misconduct or used the force.
- (b) Filed criminal charges

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1. When charges are filed related to an incident in which misconduct occurred or force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.
- (c) Administrative investigations
 1. Disclosure may be delayed until:
 - (a) There is a determination from the investigation whether the misconduct or use of force violated law or bureau policy, but no longer than 180 days after the date of the bureau's discovery of the misconduct or use of force or allegation of misconduct or use of force

1013.9.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of qualifying records, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

- (a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.
- (b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.
 1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:
 - (a) When the criminal proceeding is against someone other than an investigator and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Bureau must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about misconduct or use of force by investigators.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, the Bureau may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(8)).

1013.10 MEMBERS' ACCESS TO THEIR PERSONNEL RECORDS

Any member may request access to the member's own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from the member's personnel records shall file a written request to the Chief Investigator.

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The Bureau shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Bureau shall be retained with the contested item in the member's corresponding personnel record (Government Code § 3306.5).

Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing, or issuance of permits regarding the member.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Materials used by the Bureau for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments, or other comments or ratings used for department planning purposes.
- (g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the Bureau and the member that may be discovered in a judicial proceeding.

1013.11 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

- (a) During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. The Supervising Investigator should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained from the Chief Investigator.
- (c) If, in the opinion of the Chief Investigator, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of

Personnel Records

such matter may be destroyed in accordance with the established records retention schedule.

Request for Change of Assignment

1014.1 PURPOSE AND SCOPE

It is the intent of the Bureau that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

1014.2 REQUEST FOR CHANGE OF ASSIGNMENT

Personnel wishing a change of assignment are to submit the request in writing through the chain of command to their Bureau Chief.

1014.2.1 WRITTEN REQUEST

Employees should list their qualifications for specific assignments, all relevant experience, education and training should also be included.

The written request for change of assignment will remain in effect at the discretion of the Chief Investigator.

Commendations and Awards

1015.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Amador County District Attorney's Office Bureau of Investigation and individuals from the community.

1015.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

1015.3 COMMENDATIONS

Commendations for members of the Bureau or for individuals from the community may be initiated by any bureau member or by any person from the community.

1015.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond typical duties.

1015.4.1 BUREAU MEMBER DOCUMENTATION

Members of the Bureau should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
 1. For members of the Bureau - name, bureau and assignment at the date and time of the meritorious or commendable act
 2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the member submitting the documentation.

1015.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. Bureau members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

Commendations and Awards

- (a) Identifying information:
 - (a) For members of the bureau - name, bureau and assignment at the date and time of the meritorious or commendable act
 - (b) For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the person submitting the documentation.

1015.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the bureau should be forwarded to the Chief Investigator for his/her review. The Bureau Chief should sign and forward the documentation to the District Attorney for his/her review.

The Chief Investigator or the authorized designee will present the commendation to the bureau member for his/her signature. The documentation will then be placed into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Bureau Chief. The documentation will be signed by the Bureau Chief and forwarded to the District Attorney for his/her review. An appropriate venue or ceremony to acknowledge the individual's actions should be arranged. Documentation of the commendation shall be maintained in a file designated for such records.

Fitness for Duty

1016.1 PURPOSE AND SCOPE

All investigators are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all investigators of this bureau remain fit for duty and able to perform their job functions (Government Code § 1031).

1016.2 EMPLOYEE RESPONSIBILITIES

- (a) It shall be the responsibility of each member of this bureau to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- (b) Each member of this bureau shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- (c) During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- (d) Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

1016.3 SUPERVISOR RESPONSIBILITIES

- (a) A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- (b) Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- (c) In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- (d) In conjunction with the Supervising Investigator or employee's available Bureau Chief, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- (e) The Chief Investigator shall be promptly notified in the event that any employee is relieved from duty.

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1016.4 NON-WORK RELATED CONDITIONS

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

1016.5 WORK RELATED CONDITIONS

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the Supervising Investigator and concurrence of a Bureau Chief, 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.

1016.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief Investigator may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Department of Human Resources to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Bureau with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)).
- (c) In order to facilitate the examination of any employee, the Bureau will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed. Any failure to comply with such an order and any failure to cooperate with the

Fitness for Duty

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.

1016.7 LIMITATION ON HOURS WORKED

Absent emergency operations members should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any 2 day (48 hour) period or
- 84 hours in any 7 day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

1016.8 APPEALS

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Personnel Complaints Policy.

Meal Periods and Breaks

1017.1 PURPOSE AND SCOPE

This policy regarding meals and breaks, insofar as possible shall conform to the policy governing all County employees that has been established by the County Executive.

1017.1.1 MEAL PERIODS

Sworn employees shall remain on duty subject to call during meal breaks. All other employees are not on call during meal breaks unless directed otherwise by a supervisor.

Investigators shall take their breaks within the County limits unless on assignment outside of the County.

The time spent for the meal period shall not exceed the authorized time allowed.

Lactation Break Policy

1018.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (Labor Code § 1034).

1018.2 POLICY

It is the policy of this bureau to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207; Labor Code § 1030).

1018.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207; Labor Code § 1030). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify Dispatch or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt bureau operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

1018.4 PRIVATE LOCATION

The Bureau will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207; Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

Lactation Break Policy

1018.5 STORAGE OF EXPRESSED MILK

Any employee storing expressed milk in any authorized refrigerated area within the District Attorney's Office shall clearly label it as such and shall remove it when the employee ends her shift.

1018.5.1 STATE REQUIREMENTS

Employees have the right to request lactation accommodations. If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (Labor Code § 1034).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of Labor Code § 1031.

Employees who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (Labor Code § 1033).

Payroll Records

1019.1 PURPOSE AND SCOPE

This policy provides the guidelines for completing and submitting payroll records of bureau members who are eligible for the payment of wages.

1019.2 POLICY

The Amador County District Attorney's Office maintains timely and accurate payroll records.

1019.3 RESPONSIBILITIES

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

The Supervising Investigator and/or Chief Investigator are responsible for approving the payroll records for those under their commands.

1019.4 TIME REQUIREMENTS

Members who are eligible for the payment of wages are paid on a scheduled, periodic basis, generally on the same day or date each period, with certain exceptions, such as holidays. Payroll records shall be completed and submitted to Administration as established by the County payroll procedures.

1019.5 RECORDS

The Chief Assistant District Attorney shall ensure that accurate and timely payroll records are maintained as required by 29 CFR 516.2 for a minimum of three years (29 CFR 516.5).

Overtime Compensation Requests

1020.1 PURPOSE AND SCOPE

It is the policy of the Bureau to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Understanding (MOU), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practical after overtime is worked.

1020.1.1 BUREAU POLICY

Because of the nature of police work, and the specific needs of the Bureau, a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Bureau. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the employee by flexing a subsequent shift schedule to compensate for the time worked rather than by submitting requests for overtime payments. If the supervisor authorizes or directs the employee to complete a form for such a period, the employee shall comply.

The individual employee may request compensatory time in lieu of receiving overtime payment, however, the employee may not exceed 80 hours of compensatory time.

1020.2 REQUEST FOR OVERTIME COMPENSATION

Employees shall submit all overtime compensation requests to their supervisors as soon as practicable for verification and forwarding to the Chief Assistant District Attorney.

Failure to submit a request for overtime compensation in a timely manner may result in discipline.

1020.2.1 EMPLOYEES RESPONSIBILITY

Employees shall complete the requests after working overtime and turn them in to the Chief Investigator or the Supervising Investigator.

1020.2.2 SUPERVISORS RESPONSIBILITY

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

After the entry has been made on the employee's time card, the overtime payment request form is forwarded to the Chief Assistant District Attorney for final approval.

Overtime Compensation Requests

1020.3 ACCOUNTING FOR OVERTIME WORKED

Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Understanding provides that a minimum number of hours will be paid, (e.g., two hours for Court, four hours for outside overtime).

1020.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour as indicated by the following chart:

<u>TIME WORKED</u>	<u>INDICATE ON CARD</u>
1 to 15 minutes	.25
16 to 30 minutes	.50
31 to 45 minutes	.75
46 to 60 minutes	1 hour

1020.3.2 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case, or court trial and the amount of time for which payment is requested varies from that reported by the other investigator, the Supervising Investigator or other approving supervisor may require each employee to include the reason for the variation on the back of the overtime payment request.

Outside Employment

1021.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for bureau employees engaging in outside employment, all employees shall obtain written approval from the Chief Investigator prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief Investigator in accordance with the provisions of this policy.

1021.1.1 DEFINITIONS

Outside Employment - Any member of this bureau who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this bureau for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this bureau for services, product(s) or benefits rendered.

Outside Overtime - Any member of this bureau who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this bureau so that the Bureau may be reimbursed for the cost of wages and benefits.

1021.2 OBTAINING APPROVAL

No member of this bureau may engage in any outside employment without first obtaining prior written approval of the Chief Investigator. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must submit a Letter of Request which shall be submitted to the employee's immediate supervisor. The Letter of Request will then be forwarded to the Chief Investigator for consideration.

If approved, the employee will be provided with a Letter of Permission.. Unless otherwise indicated in writing on the Letter of Permission, a Letter of Permission will be valid unless revoked by the Chief Investigator.

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)).

1021.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Letter of Request is denied or withdrawn by the Chief Investigator, the employee may file a written notice of appeal to the District Attorney within ten days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

Outside Employment

1021.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT REQUESTS

Any outside employment Letter of Permisson may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at this bureau decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief Investigator may, at his or her discretion, revoke any previously approved outside employment Letter(s) of Permisson. 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 Letter of Permisson.
- (b) Suspension or revocation of a previously approved outside employment Letter of Permisson may be included as a term or condition of sustained discipline
- (c) If, at any time during the term of a valid outside employment Letter of Permisson, an employee's conduct or outside employment conflicts with the provisions of bureau policy, the Letter of Permisson 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 Letter of Permisson 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

1021.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the Bureau expressly reserves the right to deny any Outside Employment Request submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of bureau time, facilities, equipment or supplies, the use of the Bureau badge, prestige or influence for private gain or advantage.
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this bureau for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this bureau.
- (c) Involves the performance of an act in other than the employee's capacity as a member of this bureau that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this bureau.
- (d) Involves time demands that would render performance of the employee's duties for this bureau less efficient.

1021.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this bureau may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

Outside Employment

Any private organization, entity or individual seeking special services for security or investigations from members of this bureau must submit a written request to the Chief Investigator in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Bureau.

- (a) The applicant will be required to enter into an indemnification agreement prior to approval.
- (b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security or investigative services.
- (c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:
 - 1. The investigator(s) shall wear the bureau identification.
 - 2. The investigator(s) shall be subject to the rules and regulations of this bureau.
 - 3. No investigator may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
 - 4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
 - 5. Outside security services shall not be subject to the collective bargaining process.
 - 6. No investigator may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief Investigator.

1021.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to bureau policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1021.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Chief Investigator, undercover investigators or investigators assigned to covert operations shall not be eligible to work overtime or other assignments in a capacity which might reasonably disclose the investigator's law enforcement status.

1021.4 BUREAU RESOURCES

Employees are prohibited from using any bureau equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this bureau or other agencies through the use of the employee's position with this bureau.

Outside Employment

1021.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Bureau 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 Letter of Permisson. If, after approving a request for an outside employment position, the Bureau becomes concerned that a conflict of interest exists based on a financial reason, the Bureau 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 Letter of Permisson may be revoked pursuant to the Revocation/Suspension of Outside Employment Request section of this policy.

1021.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his or her outside employment during the period of a valid Letter of Permisson, the employee shall promptly submit written notification of such termination to the Chief Investigator through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief Investigator any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

1021.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Bureau members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief Investigator whether such outside employment should continue.

In the event the Chief Investigator determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their outside employment request, a notice of revocation of the member's Letter of Permisson will be forwarded to the involved employee, and a copy attached to the original Letter of Permisson.

Criteria for revoking the outside employment request 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.

Outside Employment

- (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 Amador County District Attorney's Office Bureau of Investigation, a request (in writing) may be made to the Chief Investigator to restore the Letter of Permission..

Occupational Disease and Work-Related Injury Reporting

1022.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, mental health issues, and work-related injuries.

1022.1.1 DEFINITIONS

Definitions related to this policy include:

Occupational disease or work-related injury - An injury, disease, or mental health issue arising out of employment (Labor Code § 3208; Labor Code § 3208.3; Labor Code § 3212 et seq.).

1022.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.).

1022.3 RESPONSIBILITIES

1022.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate (8 CCR 14300.35).

1022.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or work-related injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Countywide disease- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

1022.3.3 CHIEF INVESTIGATOR RESPONSIBILITIES

If the Chief Investigator receives a report of an occupational disease or work-related injury, he/she should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the District Attorney, the County's risk management entity, and the Human Resources Director to ensure any required Division of Occupational Health and Safety Administration (Cal/OSHA) reporting is made as required in the illness and injury prevention plan identified in the Illness and Injury Prevention Policy.

Occupational Disease and Work-Related Injury Reporting

1022.3.4 CHIEF INVESTIGATOR RESPONSIBILITIES

The Chief Investigator shall review and forward copies of the report to the Department of Human Resources. Copies of the report and related documents retained by the Bureau shall be filed in the member's confidential medical file.

1022.4 OTHER DISEASE OR INJURY

Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the Chief Investigator and a copy sent to the District Attorney .

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

1022.5 SETTLEMENT OFFERS

When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to the Chief Investigator as soon as possible.

1022.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or work-related injury, the member shall provide the Chief Investigator with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief Investigator. The purpose of such notice is to permit the County to determine whether the offered settlement will affect any claim the County may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the County's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

Personal Appearance Standards

1023.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the bureau, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this bureau and for their assignment.

1023.2 GROOMING STANDARDS

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

1023.2.1 HAIR

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

For female sworn members working or engaged in enforcement action, hair should be worn up or in a tightly wrapped braid or ponytail.

1023.2.2 MUSTACHES

A short and neatly trimmed mustache may be worn. Mustaches shall not extend below the corners of the mouth or beyond the natural hairline of the upper lip.

1023.2.3 SIDEBURNS

Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

1023.2.4 FACIAL HAIR

Facial hair is permitted, and shall be trimmed short and neat, unless authorized by the Chief Investigator or his or her designee.

1023.2.5 FINGERNAILS

Fingernails extending beyond the tip of the finger can pose a safety hazard to investigators or others. For this reason, fingernails shall be trimmed so that no point of the nail extends beyond the tip of the finger.

1023.2.6 JEWELRY AND ACCESSORIES

Jewelry, if worn around the neck, shall not be visible above the shirt collar.

Earrings shall not be worn by male sworn members without permission of the Chief Investigator. Only one ring may be worn on each hand of the employee while on-duty.

Personal Appearance Standards

1023.3 TATTOOS

While on-duty or representing the Bureau 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 Bureau in any official capacity, shall any offensive tattoo or body art be visible. Examples of offensive tattoos would include, but not be limited to, those which depict racial, sexual, discriminatory, gang related, or obscene language.

1023.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible in any attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement.
- (c) Abnormal shaping of the ears, eyes, nose or teeth
- (d) Branding or scarification.

1023.5 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief Investigator should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

Dress Regulations

1024.1 PURPOSE AND SCOPE

The dress policy of the Amador County District Attorney's Office Bureau of Investigation is established to ensure that investigators will be appropriately and professional attired. Employees should also refer to the following associated policies:

Bureau Owned and Personal Property

Body Armor

Personal Appearance Standards

1024.2 DEPARTMENT ISSUED IDENTIFICATION

The Department issues each employee an official department identification card bearing the employee's name, identifying information and photo likeness. All employees shall be in possession of their department issued identification card at all times while on duty or when carrying a concealed weapon.

- (a) Whenever on duty or acting in an official capacity representing the department, employees shall display their department issued identification in a courteous manner to any person upon request and as soon as practical.
- (b) Investigators working specialized assignments may be excused from the possession and display requirements when directed by their Bureau Chief.

1024.3 INSIGNIA AND PATCHES

1024.3.1 MOURNING BADGE

Employees shall wear a black mourning band across the badge whenever a law enforcement officer is killed in the line of duty. The following mourning periods will be observed:

- (a) An investigator of this department - From the time of death until midnight on the 14th day after the death.
- (b) An investigator from this or an adjacent county - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of an out of region fallen officer.
- (d) National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.
- (e) As directed by the Chief Investigator.

Dress Regulations

1024.4 ATTIRE

Daily attire for members of the bureau shall be business casual, or professional if circumstances dictate.

- (a) All employees shall wear clothing that fits properly, is clean and free of stains, and not damaged or excessively worn.
- (b) All male administrative, investigative and support personnel shall wear shirts with a collar, tactical pants (investigators only), slacks or suits that are moderate in style.
- (c) All female administrative, investigative, and support personnel shall wear dresses, slacks, tactical pants (investigators only), shirts, blouses, or suits which are moderate in style.
- (d) The following items shall not be worn on duty:
 - 1. T-shirt alone
 - 2. Open toed sandals or thongs
 - 3. Swimsuit, tube tops, or halter-tops
 - 4. Spandex type pants or see-through clothing
 - 5. Distasteful printed slogans, buttons or pins
- (e) Variations from this order are allowed at the discretion of the Chief Investigator or designee when the employee's assignment or current task is not conducive to the wearing of such clothing.
- (f) No item of civilian attire may be worn on duty that would adversely affect the reputation of the Amador County District Attorney's Office Bureau of Investigation or the morale of the employees.

Specialty attire, such as tactical and search warrant uniforms shall be worn when necessary. Attire may also be adjusted for special assignments, or with permission of the Supervising Investigator or Chief Investigator.

1024.5 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief Investigator, Amador County District Attorney's Office Bureau of Investigation employees may not 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 Amador County District Attorney's Office Bureau of Investigation to do any of the following (Government Code §§ 3206 and 3302):

- (a) Endorse, support, oppose, or contradict any political campaign or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause, or religion.
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.

Dress Regulations

- (d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

1024.6 RETIREE BADGES

The Chief Investigator may issue identification in the form of a badge, insignia, emblem, device, label, certificate, card or writing that clearly states the person has honorably retired from the Amador County District Attorney's Office Bureau of Investigation. This identification is separate and distinct from the identification authorized by Penal Code § 25455 and referenced in the Retired Investigator CCW Endorsement Policy in this manual.

Nepotism and Conflicting Relationships

1025.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this bureau. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

1025.1.1 DEFINITIONS

Business relationship - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Bureau employee's annual interest, compensation, investment or obligation is greater than \$250.

Conflict of interest - Any actual, perceived or potential conflict of interest in which it reasonably appears that a bureau employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

Nepotism - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

Personal relationship - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

Public official - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

Relative - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

Subordinate - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

1025.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Bureau will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

Nepotism and Conflicting Relationships

1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
 2. When personnel and circumstances permit, the Bureau will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Bureau, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship.
 - (c) Whenever possible, investigators will not be assigned to train relatives. Investigators are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
 - (d) To avoid actual or perceived conflicts of interest, members of this bureau shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
 - (e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

1025.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her immediate supervisor. In the event that no supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

1025.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief Investigator of such actual or potential violations.

Bureau Badges

1026.1 PURPOSE AND SCOPE

The Amador County District Attorney's Office Bureau of Investigation badge and uniform patch as well as the likeness of these items and the name of the Amador County District Attorney's Office Bureau of Investigation are property of the Bureau and their use shall be restricted as set forth in this policy.

1026.2 POLICY

The badge shall be issued to bureau members as a symbol of authority and the use and display of bureau badges shall be in strict compliance with this policy. Only authorized badges issued by this bureau shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

1026.2.1 FLAT BADGE

Sworn investigators are issued a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of bureau policy as the uniform badge.

- (a) Should the flat badge become lost, damaged, or otherwise removed from the investigator's control, he/she shall make the proper notifications as outlined in the Bureau Owned and Personal Property Policy.
- (b) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

1026.2.2 NON-SWORN PERSONNEL

Bureau identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee.

- (a) Non-sworn personnel shall not display any bureau Identification Card except while on duty, or otherwise acting in an official and authorized capacity.
- (b) Non-sworn personnel shall not display any bureau Identification Card or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

1026.2.3 RETIREE UNIFORM BADGE

Upon honorable retirement employees may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy.

1026.3 UNAUTHORIZED USE

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current peace officer.

Bureau Badges

Bureau badges are issued to all sworn employees for official use only. The bureau badge, patch or the likeness thereof, or the bureau name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, patch and bureau name for all material (printed matter, products or other items) developed for bureau use shall be subject to approval by the Chief Investigator.

Employees shall not loan his/her bureau badge or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

1026.4 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the bureau badge shall not be used without the expressed authorization of the Chief Investigator and shall be subject to the following:

- (a) The employee associations may use the likeness of the bureau badge for merchandise and official association business provided they are used in a clear representation of the association and not the Amador County District Attorney's Office Bureau of Investigation. The following modifications shall be included:
 - 1. The text on the upper and lower ribbons is replaced with the name of the employee association.
 - 2. The badge number portion displays the acronym of the employee association.
- (b) The likeness of the bureau badge for endorsement of political candidates shall not be used without the expressed approval of the Chief Investigator.

Temporary Modified-Duty Assignments

1027.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, County rules, current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Bureau to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

1027.2 POLICY

Subject to operational considerations, the Amador County District Attorney's Office Bureau of Investigation may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Bureau with a productive employee during the temporary period.

1027.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act (Government Code § 12940 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Amador County District Attorney's Office Bureau of Investigation shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Bureau. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief Investigator may restrict employees working in temporary modified-duty assignments from displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

1027.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

Temporary Modified-Duty Assignments

Employees seeking a temporary modified-duty assignment should submit a written request to the Chief Investigator. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Chief Investigator shall confer with the District Attorney, Department of Human Resources and/or County Counsel as appropriate.

1027.5 ACCOUNTABILITY

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate bureau operations and the employee's medical appointments, as mutually agreed upon with the Bureau Chief.

1027.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Bureau Chief that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

1027.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

Temporary Modified-Duty Assignments

- (a) Periodically apprising the Bureau Chief of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Bureau Chief and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

1027.6 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Bureau may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

1027.7 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment. Nothing in this policy limits a pregnant employee's right to a temporary modified-duty assignment if required under Government Code § 12945.

1027.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the County's personnel rules and regulations regarding family and medical care leave.

1027.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

1027.9 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

Employee Speech, Expression and Social Networking

1028.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Bureau.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or investigator associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

1028.1.1 APPLICABILITY

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, use of all internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video, and other file-sharing sites.

1028.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this Bureau. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this Bureau be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Amador County District Attorney's Office Bureau of Investigation will carefully balance the individual employee's rights against the Bureau's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

1028.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the internet. Speech and expression that may negatively affect the safety of the Amador County District Attorney's Office employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family, or

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associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an investigator who is working undercover.
- Disclosing the address of a fellow investigator.
- Otherwise disclosing where another investigator can be located off-duty.

1028.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the Bureau's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or investigator associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Amador County District Attorney's Office Bureau of Investigation or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Amador County District Attorney's Office and tends to compromise or damage the mission, function, reputation or professionalism of the Amador County District Attorney's Office or its employees. Examples may include:
 1. Statements that indicate disregard for the law or the state or U.S. Constitution.
 2. Expression that demonstrates support for criminal activity.
 3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Amador County District Attorney's Office. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Amador County District Attorney's Office Bureau of Investigation.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Bureau for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief Investigator or the authorized designee.

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- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of bureau logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Amador County District Attorney's Office on any personal or social networking or other website or web page, without the express authorization of the Chief Investigator.
- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or bureau-owned, for personal purposes while on-duty, except in the following circumstances:
 - 1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
 - 2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

1028.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or investigator associations, employees may not represent the Amador County District Attorney's Office or identify themselves in any way that could be reasonably perceived as representing the Amador County District Attorney's Office in order to do any of the following, unless specifically authorized by the Chief Investigator (Government Code § 3206; Government Code § 3302):

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or investigator associations), is affiliated with this bureau, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Amador County District Attorney's Office.

Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or investigator associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or

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indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

1028.5 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any internet site (e.g., Facebook) that is accessed, transmitted, received, or reviewed on any bureau technology system (see the Information Technology Use Policy for additional guidance).

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

1028.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief Investigator or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Amador County District Attorney's Office or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Amador County District Attorney's Office.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Amador County District Attorney's Office.

1028.7 TRAINING

Subject to available resources, the Bureau should provide training regarding employee speech and the use of social networking to all members of the Bureau.

Illness and Injury Prevention

1029.1 PURPOSE AND SCOPE

The purpose of this policy is to establish an ongoing and effective plan to reduce the incidence of illness and injury for members of the Amador County District Attorney's Office Bureau of Investigation, in accordance with the requirements of 8 CCR 3203.

This policy specifically applies to illness and injury that results in lost time or that requires medical treatment beyond first aid. Although this policy provides the essential guidelines for a plan that reduces illness and injury, it may be supplemented by procedures outside the Policy Manual.

This policy does not supersede, but supplements any related Countywide safety efforts.

1029.2 POLICY

The Amador County District Attorney's Office Bureau of Investigation is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injuries. The Bureau will establish and maintain an Illness and Injury Prevention program and will provide tools, training and safeguards designed to reduce the potential for accidents, illness and injuries. It is the intent of the Bureau to comply with all laws and regulations related to occupational safety.

1029.3 ILLNESS AND INJURY PREVENTION PLAN

The Chief Investigator is responsible for developing an illness and injury prevention plan that shall include:

- (a) Workplace safety and health training programs.
- (b) Regularly scheduled safety meetings.
- (c) Posted or distributed safety information.
- (d) A system for members to anonymously inform management about workplace hazards.
- (e) Establishment of a safety and health committee that will:
 1. Meet regularly.
 2. Prepare a written record of safety and health committee meetings.
 3. Review the results of periodic scheduled inspections.
 4. Review investigations of accidents and exposures.
 5. Make suggestions to command staff for the prevention of future incidents.
 6. Review investigations of alleged hazardous conditions.
 7. Submit recommendations to assist in the evaluation of member safety suggestions.
 8. Assess the effectiveness of efforts made by the Bureau to meet relevant standards.

Illness and Injury Prevention

- (f) Establishment of a process to ensure serious illnesses or injuries and death are reported as required by the Division of Occupational Safety and Health Administration (Cal/OSHA) (8 CCR 342).

1029.4 CHIEF INVESTIGATOR RESPONSIBILITIES

The responsibilities of the Chief Investigator include but are not limited to:

- (a) Managing and implementing a plan to reduce the incidence of member illness and injury.
- (b) Ensuring that a system of communication is in place that facilitates a continuous flow of safety and health information between supervisors and members. This system shall include:
 - (a) New member orientation that includes a discussion of safety and health policies and procedures.
 - (b) Regular member review of the illness and injury prevention plan.
 - (c) Access to the illness and injury prevention plan to members or their representatives as set forth in 8 CCR 3203.
- (c) Ensuring that all safety and health policies and procedures are clearly communicated and understood by all members.
- (d) Taking reasonable steps to ensure that all members comply with safety rules in order to maintain a safe work environment. This includes but is not limited to:
 - 1. Informing members of the illness and injury prevention guidelines.
 - 2. Recognizing members who perform safe work practices.
 - 3. Ensuring that the member evaluation process includes member safety performance.
 - 4. Ensuring bureau compliance to meet standards regarding the following:
 - (a) Respiratory protection (8 CCR 5144)
 - (b) Bloodborne pathogens (8 CCR 5193)
 - (c) Aerosol transmissible diseases (8 CCR 5199)
 - (d) Heat illness (8 CCR 3395)
 - (e) Emergency Action Plan (8 CCR 3220)
 - (f) Fire Prevention Plan (8 CCR 3221)
 - (g) Hazards associated with wildfire smoke (8 CCR 5141.1)
- (e) Making available the Identified Hazards and Correction Record form to document inspections, unsafe conditions or work practices, and actions taken to correct unsafe conditions and work practices.
- (f) Making available the Investigation/Corrective Action Report to document individual incidents or accidents.

Illness and Injury Prevention

- (g) Making available a form to document the safety and health training of each member. This form will include the member's name or other identifier, training dates, type of training, and training providers.
- (h) Conducting and documenting a regular review of the illness and injury prevention plan.

1029.5 SUPERVISOR RESPONSIBILITIES

Supervisor responsibilities include, but are not limited to:

- (a) Ensuring member compliance with illness and injury prevention guidelines and answering questions from members about this policy.
- (b) Training, counseling, instructing or making informal verbal admonishments any time safety performance is deficient. Supervisors may also initiate discipline when it is reasonable and appropriate under the Standards of Conduct Policy.
- (c) Establishing and maintaining communication with members on health and safety issues. This is essential for an injury-free, productive workplace.
- (d) Completing required forms and reports relating to illness and injury prevention; such forms and reports shall be submitted to the Chief Investigator.
- (e) Notifying the Chief Investigator when:
 - 1. New substances, processes, procedures or equipment that present potential new hazards are introduced into the work environment.
 - 2. New, previously unidentified hazards are recognized.
 - 3. Occupational illnesses and injuries occur.
 - 4. New and/or permanent or intermittent members are hired or reassigned to processes, operations or tasks for which a hazard evaluation has not been previously conducted.
 - 5. Workplace conditions warrant an inspection.

1029.6 HAZARDS

All members should report and/or take reasonable steps to correct unsafe or unhealthy work conditions, practices or procedures in a timely manner. Members should make their reports to a supervisor (as a general rule, their own supervisors).

Supervisors should make reasonable efforts to correct unsafe or unhealthy work conditions in a timely manner, based on the severity of the hazard. These hazards should be corrected when observed or discovered, when it is reasonable to do so. When a hazard exists that cannot be immediately abated without endangering members or property, supervisors should protect or remove all exposed members from the area or item, except those necessary to correct the existing condition.

Members who are necessary to correct the hazardous condition shall be provided with the necessary protection.

Illness and Injury Prevention

All significant actions taken and dates they are completed shall be documented on an Identified Hazards and Correction Record form. This form should be forwarded to the Chief Investigator via the chain of command.

The Chief Investigator will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

1029.7 INSPECTIONS

Safety inspections are crucial to a safe work environment. These inspections identify and evaluate workplace hazards and permit mitigation of those hazards. A hazard assessment checklist should be used for documentation and to ensure a thorough assessment of the work environment.

The Chief Investigator shall ensure that the appropriate documentation is completed for each inspection.

1029.7.1 EQUIPMENT

Members are charged with daily vehicle inspections of their assigned vehicles and of their personal protective equipment (PPE) prior to working in the field. Members shall notify a supervisor if an unsafe condition cannot be immediately corrected.

1029.8 INVESTIGATIONS

Any member sustaining any work-related illness or injury, as well as any member who is involved in any accident or hazardous substance exposure while on-duty shall report such event as soon as practicable to a supervisor. Members observing or learning of a potentially hazardous condition are to promptly report the condition to their immediate supervisors.

A supervisor receiving such a report should personally investigate the incident or ensure that an investigation is conducted. Investigative procedures for workplace accidents and hazardous substance exposures should include:

- (a) A visit to the accident scene as soon as possible.
- (b) An interview of the injured member and witnesses.
- (c) An examination of the workplace for factors associated with the accident/exposure.
- (d) Determination of the cause of the accident/exposure.
- (e) Corrective action to prevent the accident/exposure from reoccurring.
- (f) Documentation of the findings and corrective actions taken.
- (g) Completion of an Investigation/Corrective Action Report form.

Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Occupational Disease and Work-Related Injury Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

Illness and Injury Prevention

1029.9 TRAINING

The Chief Investigator should work with the Supervising Investigator to provide all members, including supervisors, with training on general and job-specific workplace safety and health practices. Training shall be provided:

- (a) To supervisors to familiarize them with the safety and health hazards to which members under their immediate direction and control may be exposed.
- (b) To all members with respect to hazards specific to each member's job assignment.
- (c) To all members given new job assignments for which training has not previously been provided.
- (d) Whenever new substances, processes, procedures or equipment are introduced to the workplace and represent a new hazard.
- (e) Whenever the Bureau is made aware of a new or previously unrecognized hazard.

1029.9.1 TRAINING TOPICS

The Supervising Investigator shall ensure that training includes:

- (a) Reporting unsafe conditions, work practices and injuries, and informing a supervisor when additional instruction is needed.
- (b) Use of appropriate clothing, including gloves and footwear.
- (c) Use of respiratory equipment.
- (d) Availability of toilet, hand-washing and drinking-water facilities.
- (e) Provisions for medical services and first aid.
- (f) Handling of bloodborne pathogens and other biological hazards.
- (g) Prevention of heat and cold stress.
- (h) Identification and handling of hazardous materials, including chemical hazards to which members could be exposed, and review of resources for identifying and mitigating hazards (e.g., hazard labels, Safety Data Sheets (SDS)).
- (i) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.
- (j) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.
- (k) Back exercises/stretchers and proper lifting techniques.
- (l) Avoidance of slips and falls.
- (m) Good housekeeping and fire prevention.
- (n) Other job-specific safety concerns.

1029.10 RECORDS

Records and training documentation relating to illness and injury prevention will be maintained in accordance with the established records retention schedule.

Line-of-Duty Deaths

1030.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Amador County District Attorney's Office Bureau of Investigation in the event of the death of a member occurring in the line of duty and to direct the Department in providing proper support for the member's survivors.

The Chief Investigator 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.

1030.1.1 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.

1030.2 POLICY

It is the policy of the Amador County District Attorney's Office Bureau of Investigation to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this Bureau to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

1030.3 INITIAL ACTIONS BY COMMAND STAFF

- (a) Upon learning of a line-of-duty death, the Supervising Investigator should provide all reasonably available information to the Chief Investigator.
 1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the District Attorney section of this policy).
- (b) The Chief Investigator should ensure that notifications are made in accordance with the Officer-Involved Shootings and Deaths and Major Incident Notification policies as applicable.
- (c) If the member has been transported to the hospital, the Supervising Investigator or the designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.

Line-of-Duty Deaths

- (d) The Chief Investigator or the authorized designee should assign members to handle survivor notifications and assign members to the roles of Hospital Liaison (to relieve the temporary Hospital Liaison) and the Bureau Liaison as soon as practicable (see the Notifying Survivors section and the Bureau Liaison and Hospital Liaison subsections in this policy).

1030.4 NOTIFYING SURVIVORS

Survivors should be notified as soon as possible in order to avoid the survivors hearing about the incident in other ways.

The Chief Investigator or the authorized designee should review the deceased member's emergency contact information and make accommodations to respect the member's wishes and instructions specific to notifying survivors. However, notification should not be excessively delayed because of attempts to assemble a notification team in accordance with the member's wishes.

The Chief Investigator, Supervising Investigator or the authorized designee should select at least two members to conduct notification of survivors, one of which may be the Law Enforcement Chaplain or Victim Advocate.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in Bureau vehicles. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital 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.

Line-of-Duty Deaths

- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.
- (j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Bureau Liaison.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivor's names and contact information, as well as the time and location of notification. This information should be forwarded to the Bureau Liaison.
- (m) Inform the Chief Investigator or the authorized designee once survivor notifications have been made so that other Amador County District Attorney's Office Bureau of Investigation members may be apprised that survivor notifications are complete.

1030.4.1 OUT-OF-AREA NOTIFICATIONS

The Bureau Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The Bureau Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the bureau member that the survivors can call for more information following the notification by the assisting agency.
- (b) The Bureau Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Bureau to pay travel expenses without the authorization of the Chief Assistant District Attorney.

1030.5 NOTIFYING BUREAU MEMBERS

Supervisors or members designated by the Chief Investigator are responsible for notifying Bureau members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members reporting for subsequent shifts within a short amount of time should be notified in person at the beginning of their shift. Members reporting for duty from their residence should be instructed to contact their supervisor as soon as practicable. Those members who are working later shifts or are on days off should be notified by phone as soon as practicable.

Members having a close bond with the deceased member should be notified of the incident in person. Supervisors should consider assistance (e.g., peer support 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 Bureau regarding the deceased member or the incident.

Line-of-Duty Deaths

1030.6 LIAISONS AND COORDINATORS

The Chief Investigator or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death, including, but not limited to:

- (a) Bureau Liaison.
- (b) Hospital Liaison.
- (c) Survivor Support Liaison.
- (d) Critical Incident Stress Management (CISM) coordinator.
- (e) Funeral Liaison.
- (f) Mutual aid coordinator.
- (g) Benefits Liaison.
- (h) Finance coordinator.

Liaisons and coordinators will be directed by the Bureau Liaison and should be given sufficient duty time to complete their assignments.

Members may be assigned responsibilities of more than one liaison or coordinator position depending on available bureau resources. The Bureau Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

1030.6.1 BUREAU LIAISON

The Bureau Liaison should be the Chief Investigator or of sufficient rank to effectively coordinate department resources, and should serve as a facilitator between the deceased member's survivors and the Bureau. The Bureau Liaison reports directly to the Chief Assistant District Attorney. The Bureau Liaison's responsibilities include, but are not limited to:

- (a) Directing the other liaisons and coordinators in fulfilling survivors' needs and requests. Consideration should be given to organizing the effort using the National Incident Management System (NIMS).
- (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 Bureau 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.

Line-of-Duty Deaths

- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

1030.6.2 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. Bureau 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 Amador County District Attorney's Office Bureau of Investigation 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 Amador County District Attorney's Office, 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.

1030.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Bureau Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the Chief Investigator. The following should be considered when selecting the Survivor Support Liaison:

Line-of-Duty Deaths

- The liaison should be an individual the survivors know and with whom they are comfortable working.
- 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.
- The liaison must be willing to assume the assignment with an understanding of the emotional and time demands involved.

The responsibilities of the Survivor Support Liaison include, but are not limited to:

- (a) Arranging for transportation of survivors to hospitals, places of worship, funeral homes and other locations, as appropriate.
- (b) Communicating with the Bureau Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (e) Returning the deceased member's personal effects from the Bureau and the hospital to the survivors. The following should be considered when returning the personal effects:
 - 1. Items should not be delivered to the survivors until they are ready to receive the items.
 - 2. Items not retained as evidence should be delivered in a clean, unmarked box.
 - 3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
 - 4. The return of some personal effects may be delayed due to ongoing investigations.
- (f) Assisting with the return of Bureau-issued equipment that may be at the deceased member's residence.
 - (a) Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.
- (g) Working with the CISM coordinator to ensure that survivors have access to available counseling services.
- (h) Coordinating with the District Attorney 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).
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal and administrative investigations.

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- (j) Informing survivors of any related criminal proceedings and accompanying them to such proceedings.
- (k) Introducing survivors to prosecutors, victim's assistance personnel and other involved personnel as appropriate.
- (l) Maintaining long-term contact with survivors and taking measures to sustain a supportive relationship (e.g., follow-up visits, phone calls, cards on special occasions, special support during holidays).
- (m) Inviting survivors to Bureau activities, memorial services or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Bureau recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

1030.6.4 CRITICAL INCIDENT STRESS MANAGEMENT COORDINATOR

The CISM coordinator should work with the Chief Investigator or the authorized designee, liaisons, coordinators and other resources to make CISM and counseling services available to members and survivors who are impacted by a line-of-duty death. The responsibilities of the CISM coordinator include, but are not limited to:

- (a) Identifying members who are likely to be significantly affected by the incident and may have an increased need for CISM and counseling services, including:
 - (a) Members involved in the incident.
 - (b) Members who witnessed the incident.
 - (c) Members who worked closely with the deceased member but were not involved in the incident.
- (b) Ensuring that members who were involved in or witnessed the incident are relieved of Bureau responsibilities until they can receive CISM support as appropriate and possible.
- (c) Ensuring that CISM and counseling resources (e.g., peer support, debriefing, grief counselors) are available to members as soon as reasonably practicable following the line-of-duty death.
- (d) Coordinating with the Survivor Support Liaison to ensure survivors are aware of available CISM and counseling services and assisting with arrangements as needed.
- (e) Following up with members and the Survivor Support Liaison in the months following the incident to determine if additional CISM or counseling services are needed.

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1030.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Bureau Liaison, Survivor Support Liaison and survivors to coordinate funeral arrangements to the extent the survivors wish. The Funeral Liaison's responsibilities include, but are not limited to:

- (a) Assisting survivors in working with the funeral director regarding funeral arrangements and briefing them on law enforcement funeral procedures.
- (b) Completing funeral notification to other law enforcement agencies.
- (c) Coordinating the funeral activities of the Bureau, including, but not limited to the following:
 - (a) Honor Guard
 - (a) Casket watch
 - (b) Color guard
 - (c) Pallbearers
 - (d) Bell/rifle salute
 - (b) Bagpipers/bugler
 - (c) Flag presentation
 - (d) Last radio call
- (d) Briefing the Chief Investigator and command staff concerning funeral arrangements.
- (e) Assigning an investigator to remain at the family home during the viewing and funeral.
- (f) Arranging for transportation of the survivors to and from the funeral home and interment site using bureau vehicles and drivers.

1030.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Bureau Liaison and the Funeral Liaison to request and coordinate any assistance from outside law enforcement agencies needed for, but not limited to:

- (a) Traffic control during the deceased member's funeral.
- (b) Area coverage so that as many Amador County District Attorney's Office Bureau of Investigation members can attend funeral services as possible.

The mutual aid coordinator should perform his/her duties in accordance with the Mutual Aid and Outside Agency Assistance Policy.

1030.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and assist them in applying for benefits. Responsibilities of the Benefits Liaison include, but are not limited to:

- (a) Confirming the filing of workers' compensation claims and related paperwork (see the Occupational Disease and Work-Related Injury Reporting Policy).

Line-of-Duty Deaths

- (b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the:
 - 1. Public Safety Officers' Benefits (PSOB) Programs.
 - 2. Public Safety Officers' Educational Assistance (PSOEA) Program.
 - 3. Social Security Administration.
 - 4. Department of Veterans Affairs.
- (c) Researching and assisting survivors with application for state and local government survivor benefits.
 - 1. Education benefits (Education Code § 68120)
 - 2. Health benefits (Labor Code § 4856)
 - 3. Worker's compensation death benefit (Labor Code § 4702)
- (d) Researching and assisting survivors with application for other survivor benefits such as:
 - 1. Private foundation survivor benefits programs.
 - 2. Survivor scholarship programs.
- (e) Researching and informing survivors of support programs sponsored by district attorney's office associations and other organizations.
- (f) Documenting and informing survivors of inquiries and interest regarding public donations to the survivors.
 - 1. If requested, working with the finance coordinator to assist survivors with establishing a process for the receipt of public donations.
- (g) Providing survivors with a summary of the nature and amount of benefits applied for, including the name of a contact person at each benefit office. Printed copies of the summary and benefit application documentation should be provided to affected survivors.
- (h) Maintaining contact with the survivors and assisting with subsequent benefit questions and processes as needed.

1030.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief Investigator and the Bureau Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include, but are not limited to:

- (a) Establishing methods for purchasing and monitoring costs related to the incident.
- (b) Providing information on finance-related issues, such as:
 - 1. Paying survivors' travel costs if authorized.
 - 2. Transportation costs for the deceased.
 - 3. Funeral and memorial costs.

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4. Related funding or accounting questions and issues.
- (c) Working with the Benefits Liaison to establish a process for the receipt of public donations to the deceased member's survivors.
- (d) Providing accounting and cost information as needed.

1030.7 DISTRICT ATTORNEY

In the event of a line-of-duty death, the District Attorney should be the Bureau's contact point for the media. As such, the District Attorney should coordinate with the Bureau Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Ensure that Bureau members are instructed to direct any media inquiries to the District Attorney.
- (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 Bureau and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief Investigator or the authorized designee as appropriate.
- (e) Respond, or coordinate the response, to media inquiries.
- (f) If requested, assist the member's survivors with media inquiries.
 1. Brief the survivors on handling sensitive issues such as the types of questions that reasonably could jeopardize future legal proceedings.
- (g) Release information regarding memorial services and funeral arrangements to Bureau members, other agencies and the media as appropriate.
- (h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's survivors have been notified. If the media has obtained identifying information for the deceased member prior to survivor notification, the District Attorney should request that the media withhold the information from release until proper notification can be made to survivors. The District Attorney should ensure that media are notified when survivor notifications have been made.

1030.8 LAW ENFORCEMENT CHAPLAIN/ VICTIM ADVOCATE

The Law Enforcement chaplain and/or Victim Advocate may serve a significant role in line-of-duty deaths. His/her duties may include, but are not limited to:

Line-of-Duty Deaths

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support or other matters, as appropriate.
- Assisting liaisons and coordinators with their assignments, as appropriate.
- Assisting Bureau members with counseling or emotional support, as requested and appropriate.

Further information on the potential roles and responsibilities of the chaplain is in the Chaplains Policy.

1030.9 INVESTIGATION OF THE INCIDENT

The Chief Investigator shall ensure that line-of-duty deaths are investigated thoroughly and may choose to use the investigation process outlined in the Officer-Involved Shootings and Deaths Policy.

Investigators from other agencies may be assigned to work on any criminal investigation related to line-of-duty deaths. Partners, close friends or personnel who worked closely with the deceased member should not have any investigative responsibilities because such relationships may impair the objectivity required for an impartial investigation of the incident.

Involved Bureau members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

1030.10 NON-LINE-OF-DUTY DEATH

The Chief Investigator may authorize certain support services for the death of a member not occurring in the line of duty.

Amador County District
Attorney's Office Policy Manual
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Attachments

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**Commission on Peace Officer Standards and
Training Hate Crimes Model Policy 2019.pdf**

Hate Crime Checklist.pdf

HATE CRIME CHECKLIST

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VICTIM	<p style="text-align: center;"><u>Victim Type:</u></p> <p><input type="checkbox"/> Individual Legal name (Last, First): _____ Other Names used (AKA): _____</p> <p><input type="checkbox"/> School, business or organization Name: _____ Type: _____ <i>(e.g., non-profit, private, public school)</i> Address: _____</p> <p><input type="checkbox"/> Faith-based organization Name: _____ Faith: _____ Address: _____</p>	<p style="text-align: center;"><u>Target of Crime (Check all that apply):</u></p> <p><input type="checkbox"/> Person <input type="checkbox"/> Private property <input type="checkbox"/> Public property</p> <p><input type="checkbox"/> Other _____</p> <p style="text-align: center;"><u>Nature of Crime (Check all that apply):</u></p> <p><input type="checkbox"/> Bodily injury <input type="checkbox"/> Threat of violence</p> <p><input type="checkbox"/> Property damage</p> <p><input type="checkbox"/> Other crime: _____</p> <p>Property damage - estimated value _____</p>
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BIAS	<p style="text-align: center;"><u>Type of Bias</u> (Check all characteristics that apply):</p> <p><input type="checkbox"/> Disability</p> <p><input type="checkbox"/> Gender</p> <p><input type="checkbox"/> Gender identity/expression</p> <p><input type="checkbox"/> Sexual orientation</p> <p><input type="checkbox"/> Race</p> <p><input type="checkbox"/> Ethnicity</p> <p><input type="checkbox"/> Nationality</p> <p><input type="checkbox"/> Religion</p> <p><input type="checkbox"/> Significant day of offense <i>(e.g., 9/11, holy days)</i></p> <p><input type="checkbox"/> Other: _____</p> <p>Specify disability (be specific): _____ _____</p>	<p style="text-align: center;"><u>Actual or Perceived Bias – Victim’s Statement:</u></p> <p><input type="checkbox"/> Actual bias [Victim actually has the indicated characteristic(s)].</p> <p><input type="checkbox"/> Perceived bias [Suspect believed victim had the indicated characteristic(s)]. <i>If perceived, explain the circumstances in narrative portion of Report.</i></p> <p style="text-align: center;"><u>Reason for Bias:</u></p> <p>Do you feel you were targeted based on one of these characteristics? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i></p> <p>Do you know what motivated the suspect to commit this crime? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i></p> <p>Do you feel you were targeted because you associated yourself with an individual or a group? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Explain in narrative portion of Report.</i></p> <p>Are there indicators the suspect is affiliated with a Hate Group (i.e., literature/tattoos)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Describe in narrative portion of Report.</i></p> <p>Are there Indicators the suspect is affiliated with a criminal street gang? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>Describe in narrative portion of Report.</i></p>
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	<p style="text-align: center;"><u>Bias Indicators (Check all that apply):</u></p> <p><input type="checkbox"/> Hate speech <input type="checkbox"/> Acts/gestures <input type="checkbox"/> Property damage <input type="checkbox"/> Symbol used</p> <p><input type="checkbox"/> Written/electronic communication <input type="checkbox"/> Graffiti/spray paint <input type="checkbox"/> Other: _____</p> <p><i>Describe with exact detail in narrative portion of Report.</i></p>
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HISTORY	<p style="text-align: center;"><u>Relationship Between Suspect & Victim:</u></p> <p>Suspect known to victim? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Nature of relationship: _____</p> <p>Length of relationship: _____</p> <p><i>If Yes, describe in narrative portion of Report</i></p>	<p><input type="checkbox"/> Prior reported incidents with suspect? Total # _____</p> <p><input type="checkbox"/> Prior unreported incidents with suspect? Total # _____</p> <p>Restraining orders? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>If Yes, describe in narrative portion of Report</i></p> <p>Type of order: _____ Order/Case# _____</p>
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WEAPONS	<p>Weapon(s) used during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No Type: _____</p> <p>Weapon(s) booked as evidence? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Automated Firearms System (AFS) Inquiry attached to Report? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
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HATE CRIME CHECKLIST

Page ____ of ____

EVIDENCE	Witnesses present during incident? <input type="checkbox"/> Yes <input type="checkbox"/> No	Statements taken? <input type="checkbox"/> Yes <input type="checkbox"/> No
	Evidence collected? <input type="checkbox"/> Yes <input type="checkbox"/> No	Recordings: <input type="checkbox"/> Video <input type="checkbox"/> Audio <input type="checkbox"/> Booked
	Photos taken? <input type="checkbox"/> Yes <input type="checkbox"/> No	Suspect identified: <input type="checkbox"/> Field ID <input type="checkbox"/> By photo
	Total # of photos: _____ D#: _____ Taken by: _____ Serial #: _____	<input type="checkbox"/> Known to victim

OBSERVATIONS	<u>VICTIM</u>	<u>SUSPECT</u>
	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____	<input type="checkbox"/> Tattoos <input type="checkbox"/> Shaking <input type="checkbox"/> Unresponsive <input type="checkbox"/> Crying <input type="checkbox"/> Scared <input type="checkbox"/> Angry <input type="checkbox"/> Fearful <input type="checkbox"/> Calm <input type="checkbox"/> Agitated <input type="checkbox"/> Nervous <input type="checkbox"/> Threatening <input type="checkbox"/> Apologetic <input type="checkbox"/> Other observations: _____

ADDITIONAL QUESTIONS (Explain all boxes marked "Yes" in narrative portion of report):

Has suspect ever threatened you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Has suspect ever harmed you?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Does suspect possess or have access to a firearm?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Are you afraid for your safety?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Do you have any other information that may be helpful?	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Resources offered at scene: Yes No Type: _____

MEDICAL	<u>Victim</u>	<u>Suspect</u>	Paramedics at scene? <input type="checkbox"/> Yes <input type="checkbox"/> No Unit # _____
	<input type="checkbox"/>	<input type="checkbox"/>	Declined medical treatment
	<input type="checkbox"/>	<input type="checkbox"/>	Will seek own medical treatment
	<input type="checkbox"/>	<input type="checkbox"/>	Received medical treatment
Authorization to Release Medical Information, Form 05.03.00, signed? <input type="checkbox"/> Yes <input type="checkbox"/> No			Name(s)/ID #: _____
			Hospital: _____
			Jail Dispensary: _____
			Physician/Doctor: _____
			Patient #: _____

Officer (Name/Rank)	Date
Officer (Name/Rank)	Date
Supervisor Approving (Name/Rank)	Date

Statutes and Legal Requirements.pdf

Statutes and Legal Requirements

Items listed in this section include sections from the California Penal Code (CPC), Welfare and Institutions Code (WI) and Government Code (GC).

Definitions

CPC 422.55 - Provides general definition of hate crimes in California.

CPC 422.56- Provides definitions of terms included in hate crimes statutes.

GC 12926- Disability-related definitions applicable to some hate crime statutes.

Felonies

Hate Crimes

CPC 422.7 - Commission of a crime for the purpose of interfering with another's exercise of civil rights.

Related Crimes

CPC 190.2(a)(16) - Homicide penalties related to certain hate crime related acts.

CPC 190.03(a) - Homicide penalties related to certain hate crime related acts.

CPC 288(b)(2) - Sexual assault of dependent person by caretaker

CPC 368(b) - Dependent adult abuse generally - may apply as disability-related hate crime.

CPC 594.3 - Vandalism of places of worship.

CPC 11412 - Causing or attempting to cause other to refrain from exercising religion by threat.

CPC 11413 - Arson or destructive device at place of worship.

Misdemeanors

Hate Crimes

CPC 422.6 - Use of force, threats, or destruction of property to interfere with another's exercise of civil rights.

CPC 422.77 - Violation of civil order (Bane Act) protecting the exercise of civil rights

Related Crimes

CPC 302 - Disorderly conduct during an assemblage of people gathered for religious worship at a tax-exempt place of worship.

CPC 538(c) - Unauthorized insertion of advertisements in newspapers and redistribution to the public.

CPC 640.2 - Placing handbill, notice of advertisement on a consumer product or product packaged without authorization.

CPC 11411 - Terrorism of owner or occupant of real property. Placement or display of sign, symbol, or other physical impression without authorization, engagement in pattern of conduct, or burning or desecration of religious symbols.

Enhancements

CPC 190.2(a)(16) - Special circumstances imposing the Death Penalty or Life Without Possibility of Parole, if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 190.3 - Special circumstances imposing LWOP if the victim was intentionally killed because of sexual orientation, gender, or disability.

CPC 422.75 - Penalty for felony committed because of victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation shall be enhanced one, two, or three years in prison, if the person acts alone; and two, three, or four years if the person commits the act with another.

CPC 1170.8 - Enhancement for robbery or assault at a place of worship.

CPC 1170.85(b) - Felony assault or battery enhancement due to age or disability.

Reporting

CPC 13023- Requirement for law enforcement agencies to report hate crime data to DOJ.

WI 15630 – Elder and Dependent Adult Abuse Mandated Reporting (may apply in disability-related hate crimes).

Training and Policy Requirements

CPC 422.87 - Hate crimes policy adoption and update requirements (AB 1985, Effective January 1, 2019).

CPC 13519.6 - Defines hate crime training requirements for peace officers.

CPC 13519.41 - Training requirements on sexual orientation and gender identity-related hate crimes for peace officers and dispatchers (AB 2504, Effective January 1, 2019).

Miscellaneous Provisions

CPC 422.78 - Responsibility for prosecution of stay away order violations.

CPC 422.86 - Public policy regarding hate crimes.

CPC 422.89 - Legislative intent regarding violations of civil rights and hate crimes

CPC 422.92 - Hate crimes victims brochure requirement for law enforcement agencies.

CPC 422.93 - Protection of victims and witnesses from being reported to immigration authorities.

GC 6254 - Victim confidentiality.

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