

San Benito County Probation Department

Probation Manual

CHIEF'S PREFACE

This policy manual represents the guiding principles and core values of the San Benito County Probation Department. The policies included are predicated on existing laws, best practices, and high ethical standards. These policies outline expectations for employees and provide guidance on the overall operations of the Probation Department.

The justice system in which we work is a complex and dynamic environment, which presents a multitude of tasks to all employees daily. Everyday decisions have the potential to profoundly affect the lives of supervised clients, victims, and the overall community. It is my expectation and sincere hope that employees refer to this policy manual regularly, for it is an important tool to use in the performance of our duties. It is the responsibility of every employee to perform their duties with honor, integrity, and sound judgment. The overall success of the department will be measured by the degree to which we maintain the trust of the public, our policy makers, the judicial system, our system partners, and valued stakeholders. Adherence to the policies contained within this manual will ensure consistency, guidance, and clear direction as we navigate what lies ahead.

Ashlyn A. Canez
Chief Probation Officer
San Benito County Probation Department
Review date: December 28, 2023

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CODE OF ETHICS

In recognition of the profound responsibilities inherent in a profession dedicated to the adjustment of social relationships, I acknowledged these to be my guiding precepts:

Serve With Humility

Act Without Prejudice

Uphold The Law With Dignity

Be Objective In The Performance Of My Duties

Respect The Inalienable Rights Of All Persons

Hold Inviolable Those Confidences Reposed In Me

Cooperate With Fellow Workers And Related Agencies

Be Aware of My Responsibilities To The Individual And To The Community

*Improve My Professional Standards Through
Continuously Seeking Knowledge And Understanding*

**I accept these principles as my code of ethics
and shall build my professional life upon them**

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MISSION AND VALUES STATEMENT

MISSION STATEMENT

San Benito County Probation Department's mission is to serve the court and support clients through trauma informed care and rehabilitative services to change behavior and enhance the welfare of the community.

VALUES STATEMENT

The values of the San Benito County Probation Department are:

- Our employees constitute our most valuable resource.
- Respect the rights and dignity of all individuals.
- Provide services in a trauma informed, professional and respectful manner.

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Chapter 1 - Probation Role and Authority

Probation Authority

100.1 PURPOSE AND SCOPE

This policy is to identify the authority of San Benito County Probation Department officers.

100.2 POLICY

It is the policy of this department for all officers to exercise their authority fairly and objectively.

This department recognizes the power of officers to use discretion in the exercise of the authority granted to them. Officers are encouraged to use sound discretion in the exercise of their duties.

This department does not tolerate abuse of authority.

100.3 OFFICER AUTHORITY

Officers are authorized to supervise clients as provided in this manual, under applicable court orders, and state law (Penal Code § 1202.8; Penal Code § 1203.71).

100.4 ARREST AND OTHER POWERS

Officers authorized by the Chief Probation Officer may exercise peace officer powers at any place in the state while engaged in the performance of official duties. The authority extends only to (Penal Code § 830.5; Penal Code § 1203.71; Penal Code § 3455):

- (a) Conditions of any person being supervised by this department who is on parole, probation, mandatory supervision, or post-release community supervision.
- (b) The escape of an incarcerated person or ward from a state or local institution.
- (c) The transportation of persons on parole, probation, mandatory supervision, or post-release community supervision.
- (d) Violations of any penal provisions of law discovered while performing the usual or authorized duties of employment.
- (e) Rendering mutual aid to any other law enforcement agency.

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 Probation Officer

101.1 PURPOSE AND SCOPE

Chief Probation Officers employed within the State of California are required to meet specific requirements for appointment. This policy provides guidelines for the appointment of the Chief Probation Officer of the San Benito County Probation Department, who is required to exercise the powers and duties of the office as prescribed by state law (Government Code § 27771).

101.2 POLICY

It is the policy of the San Benito County Probation Department that the Chief Probation Officer meets the minimum standards for exercising the authority granted by law.

101.3 AGENCY HEAD REQUIREMENTS

The Chief Probation Officer of this department shall be appointed and retained pursuant to provisions of the merit or civil service system (Government Code § 27770).

Oath of Office

102.1 PURPOSE AND SCOPE

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

102.2 POLICY

It is the policy of the San Benito County Probation Department that, when appropriate, department members affirm the oath of their office as an expression of commitment to the constitutional rights of those served by the Department and the dedication of its members to their duties.

102.3 OATH OF OFFICE

All department members shall take and subscribe to the oaths or affirmations applicable to their positions as determined by the Chief Probation Officer (Cal. Const. Art. 20, § 3).

102.4 MAINTENANCE OF RECORDS

The oath of office shall be filed in accordance with the established records retention schedule.

Policy Manual

103.1 PURPOSE AND SCOPE

The manual of the San Benito County Probation Department is hereby established and shall be referred to as the Policy Manual or the manual. The manual is a statement of the current policies, procedures, rules, and guidelines of this department. All members are to conform to the provisions of this manual.

All prior and existing manuals, orders, and regulations that conflict with this manual are rescinded, except to the extent that portions of existing manuals, orders, and other regulations that have not been included herein shall remain in effect where 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 that circumstances may arise that warrant departure from these guidelines. It is the intent of this manual to be viewed from an objective standard, taking into consideration the sound discretion entrusted to members of this department under the circumstances reasonably available at the time of any incident.

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 San Benito County Probation Department 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 department members. Violations of any provision of any policy contained within this manual shall only form the basis for administrative action, training, or discipline. The San Benito County Probation Department reserves the right to revise any policy content, in whole or in part.

103.3 AUTHORITY

The Chief Probation Officer 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 Probation Officer or the authorized designee is authorized to issue Departmental Directives, which shall modify those provisions of the manual to which they pertain. Departmental Directives shall remain in effect until such time as they may be permanently incorporated into the manual.

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:

SBCPD - The San Benito County Probation Department.

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Department - The San Benito County Probation Department.

Employee - Any person employed by the Department.

Manual - The San Benito County Probation Department Policy Manual.

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

Member - Any person employed or appointed by the San Benito County Probation Department, including:

- Full- and part-time employees
- Volunteers

Officer - Those employees of the San Benito County Probation Department who engage in the supervision of clients.

On-duty - A member's status during the period when actually engaged in the performance of assigned duties.

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

POST - The Commission on Peace Officer Standards and Training.

Rank - The title of the classification held by any officer.

Shall or will - Indicates a mandatory action.

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

STC - Standards and Training for Corrections.

Supervisor - A person in a position of authority that may include directing the work of other members, the authority to adjust grievances, and responsibility for hiring, transfer, suspension, promotion, discharge, assignment, reward, or discipline of other members. 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., officer-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 department 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.

Supervisor classifications are designated as Probation Program Managers at the San Benito County Probation Department.

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103.5 ISSUING THE POLICY MANUAL

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

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

103.6 PERIODIC REVIEW OF THE POLICY MANUAL

The Chief Probation Officer, or authorized designee, 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 the member 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 Assistant Chief Probation Officer will ensure that members under the Supervisor's command are aware of any Policy Manual revision.

All department members suggesting revision(s) of the contents of the Policy Manual shall forward their written suggestions to their Supervisors, who will consider the recommendations and forward them to the command staff as appropriate.

Chapter 2 - Organization and Administration

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

This policy establishes the organizational structure of the Department and defines general responsibilities of department members.

200.2 POLICY

The San Benito County Probation Department will implement and maintain an organizational structure that provides clear and identifiable roles for command, control, and guidance of the Department. Each position and assignment should have clearly identified responsibilities and a defined chain of command.

200.3 DIVISIONS

The Chief Probation Officer is responsible for administering and managing the San Benito County Probation Department. These are the divisions in the Department:

- Administration
- Juvenile Hall
- Court Unit
- Juvenile Services Unit
- Adult Services Unit
- Reentry Services

200.3.1 ADMINISTRATION

The Administrative Division is commanded by a Staff Analyst, whose primary responsibility is to provide general management, direction, and control for fiscal, clerical, and all other administrative responsibilities.

200.3.2 JUVENILE HALL

The Juvenile Hall is commanded by the facility manager designated by the Chief Probation Officer whose primary responsibility is to provide general management, direction, and control for the Juvenile Hall.

200.3.3 COURT UNIT

The Court Unit is commanded by a Probation Program Manager designated by the Chief Probation Officer. The Court unit is responsible for covering all Court proceedings as well as preparing mandated reports ordered by the Court.

200.3.4 JUVENILE SERVICES UNIT

The Juvenile Services Unit is commanded by a Probation Program Manager designated by the Chief Probation Officer, whose primary responsibility is to provide general supervision, direction, and control of officers assigned to juvenile caseloads and the Court Unit.

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200.3.5 ADULT SERVICES UNIT

The Adult Services Unit is commanded by a Probation Program Manager designated by the Chief Probation Officer, whose primary responsibility is to provide general management, direction, and control of officers assigned adult caseloads.

200.3.6 REENTRY SERVICES UNIT

Reentry services is commanded by the Reentry Program Manager designated by the Chief Probation Officer, whose primary responsibility is to provide general management, direction, and control of the Reentry Case Manager and services administered to justice involved individuals at the county jail and in the community.

200.4 COMMAND PROTOCOL

200.4.1 SUCCESSION OF COMMAND

The Chief Probation Officer exercises command over all members of the San Benito County Probation Department. During planned absences, the Chief Probation Officer will designate a manager to serve as the acting Chief Probation Officer. Except when designated as above, the order of command authority in the absence or unavailability of the Chief Probation Officer is:

- (a) Assistant Chief Probation Officer
- (b) Probation Program Manager (by seniority)
- (c) Juvenile Hall Program Manager
- (d) Senior Deputy Probation Officer (by seniority)

Departmental Directives

201.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for issuing Departmental Directives.

201.2 POLICY

Departmental Directives will be used to modify policies of the San Benito County Probation Department when an immediate need to adapt a policy or procedure exists, in order to best meet the mission of the Department. Applicable memorandums of understanding and other alternatives should be considered before a Departmental Directive is issued.

201.3 PROTOCOL

Departmental Directives will be incorporated into the Policy Manual, as required, upon approval. Departmental Directives will modify existing policies or create a new policy as appropriate and will be rescinded if incorporated into the manual.

The Chief Probation Officer or the authorized designee shall ensure that all Departmental Directives are disseminated appropriately. Departmental Directives should be numbered consecutively and incorporate the year of issue. All members will be notified when a Departmental Directive is rescinded or has been formally adopted into the Policy Manual.

201.4 RESPONSIBILITIES

201.4.1 ASSISTANT CHIEF PROBATION OFFICER

The Assistant Chief Probation Officer or the authorized designee shall periodically review Departmental Directives to determine whether they should be formally incorporated into the Policy Manual and, as appropriate, will recommend necessary modifications to the Chief Probation Officer.

201.4.2 CHIEF PROBATION OFFICER

Only the Chief Probation Officer or the authorized designee may approve and issue Departmental Directives.

201.5 ACCEPTANCE OF DIRECTIVES

All members shall be provided access to the Departmental Directives. Each member shall acknowledge that the member has been provided access to and has had the opportunity to review the Departmental Directives. Members shall seek clarification as needed from an appropriate supervisor for any provisions they do not fully understand.

Emergency Plan

202.1 PURPOSE AND SCOPE

This policy clarifies the role of the San Benito County Probation Department and responsibilities of its members pertaining to large-scale emergencies and the State of California Emergency Plan.

202.2 POLICY

The San Benito County Probation Department will prepare for large-scale emergencies within and outside its jurisdiction through planning and mutual cooperation with other agencies.

The County Emergency Plan complies with the State of California's Emergency Services Act (Government Code § 8550 et seq.). This plan provides guidance for County emergency operations within and outside its borders as may be required.

202.2.1 SAN BENITO COUNTY PROBATION DEPARTMENT CODE/ORDINANCES

An emergency management organization has been established by the County by ordinance. This ordinance has been approved by the County Council (Government Code § 8610).

202.3 ACTIVATING THE EMERGENCY PLAN

The Emergency Plan can be activated in a number of ways. For the San Benito County Probation Department, the Chief Probation Officer or the highest-ranking on-duty officer may activate the Emergency Plan in response to a major emergency.

Upon activation of the plan, the Chief Probation Officer or the authorized designee should contact the State Office of Emergency Services to assist with mutual aid response from local, state, and federal law enforcement agencies.

202.3.1 RECALL OF PERSONNEL

In the event that the Emergency Plan is activated, all employees of the San Benito County Probation Department are subject to immediate recall to service. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief Probation Officer or the highest-ranking on-duty supervisor.

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

202.4 LOCATION OF THE EMERGENCY PLAN

Copies of the Emergency Plan are available in Administrative and in the Supervisor's office. All supervisors should familiarize themselves with the Emergency Plan and the roles members will play when the plan is implemented. The Chief Probation Officer should ensure that department members are familiar with the roles they will play when the plan is implemented.

202.5 EMERGENCY PLAN REVIEW

The Chief Probation Officer or the authorized designee shall review the Emergency Plan at least once every two years and ensure the plan conforms to any revisions made by the National Incident

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Management System (NIMS). The Chief Probation Officer or the authorized designee should appropriately address any needed revisions.

202.6 TRAINING

The Department should provide annual training on the Emergency Plan for all supervisors and other appropriate personnel. All supervisors should familiarize themselves with the Emergency Plan and personnel responsibilities when the plan is implemented. Training should incorporate a full or partial exercise, tabletop exercise, or command discussion.

Training

203.1 PURPOSE AND SCOPE

This policy establishes general guidelines for how training is to be identified, conducted, and documented (including basic, in-service, and outside training). This policy is not meant to address all specific training endeavors or identify every required training topic.

203.2 POLICY

The Department shall administer a training program that will meet the standards of federal, state, local, and the California POST, Board of State and Community Corrections (BSCC), or Standards and Training for Corrections (STC) training requirements. It is a priority of this department to provide continuing education and training for the professional growth and development of its members.

203.3 OBJECTIVES

The objectives of the training program are to:

- (a) Enhance the level of probation services provided to the courts, our clients and the community.
- (b) Increase the technical expertise and overall effectiveness of department members.
- (c) Provide for continued professional development of department members.
- (d) Ensure compliance with STC rules and regulations concerning probation training.

203.4 TRAINING MANAGER

The Chief Probation Officer shall designate the Training Manager who is responsible for developing, reviewing, updating, and maintaining the department training plan so that required training is completed. The Training Manager should review the training plan annually.

203.4.1 TRAINING RESTRICTION

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

203.5 TRAINING PLAN

The training plan should include the anticipated costs associated with each type of training. The plan should include a systematic and detailed method for recording all required training for all members.

Updates and revisions may be made to any portion of the training plan at any time it is deemed necessary.

203.5.1 GOVERNMENT-MANDATED TRAINING

The following lists, while not all-inclusive, identify training that is required under state laws and regulations. Additional required training may be identified in individual policies.

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- (a) State-mandated minimum training for officers requires completion of the following:
 - 1. Annual STC in-service training shall be selected by the Supervisor and Training Manager based on agency or individual needs (15 CCR 184):
 - (a) Maintenance of first-aid and CPR certification.
 - (b) 40 hours of academic in-service training.
 - 2. No less than the minimum number of hours as established by the STC Probation Officer Core Course Manual:
 - (a) Agency specific training
 - (b) California justice system
 - (c) Current trends and practices
 - (d) Risk factors
 - (e) Juvenile detention decisions
 - (f) Information gathering
 - (g) Court reports and presentations
 - (h) Orientation, case planning, and supervision
 - (i) Supervision issues
 - (j) Priority setting
 - (k) Personal safety
 - (l) Use of force
 - (m) Restraints and searching
 - (n) Transportation
 - (o) Physical conditioning
 - (p) CPR
 - (q) First aid
 - (r) Peace Officer Standards and Training (POST) required training (Penal Code § 832)
- (b) Any other mandated training (e.g., National Incident Management System) as determined by the San Benito County Probation Department.

203.6 TRAINING COMMITTEE

The Training Manager may establish a Training Committee, on a temporary or as-needed basis, which will assist with identifying training needs.

The Training Committee should comprise at least three members, with the senior-ranking member of the committee acting as the chairperson. Committee members should be selected based on their abilities related to post-incident evaluation and assessing related training needs. The Training Manager has the discretion to remove or replace members of the committee.

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

- (a) Any incident involving the death or serious injury of a member.
- (b) Incidents involving a high risk of death, serious injury, or civil liability.
- (c) Incidents identified by the Department to determine possible training needs.

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

The Training Manager will consider the recommendation of the committee and determine what training should be addressed, taking into consideration the mission of the Department and the available resources. Training recommendations as determined by the Training Manager shall be submitted to the command staff for review.

203.7 TRAINING ATTENDANCE

- (a) All members assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences should be limited to:
 - 1. Court appearances.
 - 2. Previously approved vacation or time off.
 - 3. Illness or medical leave.
 - 4. Physical limitations preventing the member's participation.
 - 5. Emergency situations or department necessity.
- (b) All members unable to attend training as scheduled shall notify their supervisors as soon as practicable, but no later than one hour prior to the start of training, and shall:
 - 1. Document the absence in a memorandum to the supervisor.
 - 2. Arrange through the supervisor or Training Manager to attend the required training on an alternate date.

203.8 DAILY TRAINING BULLETINS

The Lexipol Daily Training Bulletins (DTBs) are contained in a web-accessed system that provides training on the San Benito County Probation Department Policy Manual and other important topics.

Members assigned to participate in DTBs shall only use the login credentials assigned to them by the Training Manager. Members should not share their password with others and should frequently change their password to protect the security of the system. After each session, members should

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log off the system to prevent unauthorized access. The content of the DTBs is copyrighted material and shall not be shared with others outside of the Department.

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

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

203.9 TRAINING RECORDS

The Training Manager is responsible for the creation, filing, and storage of all training records. Training records shall be retained in accordance with the established records retention schedule.

Electronic Mail

204.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper use and application of the electronic mail (email) system provided by the Department.

204.2 POLICY

San Benito County Probation Department members shall use email in a professional manner in accordance with this policy and current law (e.g., California Open Records Act).

204.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails accessed, transmitted, received, or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

204.4 RESTRICTIONS ON USE OF EMAIL

Messages transmitted over the email system are restricted to official business activities, or shall only contain information that is essential for the accomplishment of business-related tasks or for communications that are directly related to the business, administration, or practices of the Department.

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

Email messages addressed to the entire Department are only to be used for official business-related items that are of particular interest to all users. In the event that a member has questions about sending a particular email communication, the member should seek prior approval from a supervisor in the member's chain of command.

It is a violation of this policy to transmit a message under another member's name or email address or to use the password of another to log into the system unless directed to do so by a supervisor. Members are required to log off the network or secure the workstation when the computer is unattended. This added security measure will minimize the potential misuse of a member's email, name, or password. Members who believe a password has become known to another person shall change the password immediately.

204.5 EMAIL RECORD MANAGEMENT

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

The Chief Probation Officer, or the authorized designee, shall ensure that email messages are retained and recoverable as outlined in the Records Maintenance and Release Policy.

Administrative Communications

205.1 PURPOSE AND SCOPE

This policy sets forth the manner in which the Department communicates significant changes to its membership, such as promotions, transfers, hiring and appointment of new members and separations; individual and group awards and commendations; or other changes in status. This policy also provides guidelines for the professional handling of electronic and non-electronic administrative communications from the Department.

205.2 POLICY

The San Benito County Probation Department will appropriately communicate significant events within the organization to its members. Both electronic and non-electronic administrative communications will be professional in appearance and comply with the established letterhead, signature, and disclaimer guidelines as applicable.

205.3 MEMORANDUMS

Memorandums may be issued periodically by the Chief Probation Officer or the authorized designee to announce and document all promotions, transfers, hiring and appointment of new members, separations; individual and group awards and commendations; or other changes in status.

205.4 CORRESPONDENCE

To ensure that the letterhead and name of the Department are not misused, all official external correspondence shall be on department letterhead. All department letterhead shall bear the signature element of the Chief Probation Officer. Official correspondence and use of letterhead requires approval of a supervisor. Department letterhead may not be used for personal purposes.

Official internal correspondence shall be on the appropriate department electronic or non-electronic memorandum forms.

Electronic correspondence shall contain the sender's department-approved signature and electronic communications disclaimer language.

205.5 SURVEYS

All surveys made in the name of the Department shall be authorized by the Chief Probation Officer or the authorized designee.

205.6 OTHER COMMUNICATIONS

Departmental Directives and other communications necessary to ensure the effective operation of the Department shall be issued by the Chief Probation Officer or the authorized designee (see the Departmental Directives Policy).

Supervision Staffing Levels

206.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines to ensure that proper supervision is available to meet the needs of the Department and members.

206.2 POLICY

The San Benito County Probation Department will ensure that proper supervision is available to meet the needs of its members and to achieve the goals of the Department. The needs of its members should be balanced with the needs of the Department for flexibility and discretion in assigning members to meet supervisory needs. While balance is desirable, the paramount concern is to meet the needs of the Department.

206.3 MINIMUM SUPERVISION STAFFING LEVELS

Minimum staffing levels should be established by the Supervisors for each work group. The supervision staffing levels should support proper supervision, span of control, compliance with any collective bargaining agreement or memorandum of understanding, and activity levels to meet the needs of members and the goals of the Department.

206.3.1 TEMPORARY SUPERVISORS

To accommodate training and other unforeseen circumstances, another qualified member may be used as a temporary supervisor in place of a regularly assigned supervisor.

Retiree Concealed Firearms

207.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension, or revocation of San Benito County Probation Department identification cards to qualified former or retired law enforcement officers under the Law Enforcement Officers Safety Act (LEOSA) and California law (18 USC § 926C; Penal Code § 25455).

207.2 POLICY

It is the policy of the San Benito County Probation Department to provide identification cards to qualified former or retired officers to facilitate the lawful carrying of concealed weapons by those individuals.

207.3 LEOSA

The Chief Probation Officer may issue an identification card for LEOSA purposes to any qualified former officer of this department who (18 USC § 926C(c)):

- (a) Separated from service in good standing from this department as an officer.
- (b) Before such separation, had regular employment as a peace officer for an aggregate 10 years or more or, if employed as a peace officer for fewer than 10 years, separated from service after completing any applicable probationary period due to a service-connected disability as determined by this department.
- (c) Has not been disqualified for reasons related to mental health.
- (d) Has not entered into an agreement with this department in which the officer acknowledges disqualification to receive a firearms qualification certificate for reasons related to mental health.
- (e) Is not prohibited by federal law from receiving or possessing a firearm.

207.3.1 LEOSA CARD FORMAT

The LEOSA identification card should contain a photograph of the former officer and identify the officer as having been employed as an officer.

If the San Benito County Probation Department qualifies the former officer, the LEOSA identification card or separate certification should indicate the date the former officer was tested or otherwise found by the Department to meet the active-duty standards for qualification to carry a firearm.

207.3.2 AUTHORIZATION

Any qualified former peace officer, including a former officer of this department, may carry a concealed firearm under 18 USC § 926C when:

- (a) In possession of photographic identification that identifies the individual as having been employed as a peace officer, and one of the following:

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1. An indication from the person's former probation agency that the person has, within the past year, been tested or otherwise found by the 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 peace 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 entity on private property if such prohibition is permitted by California law.

207.4 CALIFORNIA IDENTIFICATION CARD

The Chief Probation Officer may issue an identification card with an endorsement to carry a concealed firearm to a person who (Penal Code § 26300):

- (a) Honorably retired following service as a full-time sworn officer of this department who was authorized to, and did, carry a concealed firearm during the course and scope of employment (Penal Code § 25455).
 1. Honorably retired includes all peace officers who have qualified for, and accepted, a service or disability retirement, however, it shall not include any officer who retires in lieu of termination or who is retiring because of a psychological disability (Penal Code § 26305).
- (b) Honorably retired as a peace officer from any jurisdiction that this department now serves under the following conditions (Penal Code § 25905):
 1. The retiree's previous agency is no longer providing law enforcement services or the relevant government body is dissolved.
 2. This department is in possession of the retiree's complete personnel records or can verify the retiree's honorably retired status.
 3. The retiree is in compliance with all of the requirements of this department for the issuance of a Concealed Carry Weapon (CCW) Approved endorsement.
- (c) Was a qualified retired reserve officer who met the department requirements for a CCW Approved endorsement (Penal Code § 26300).

207.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT

The card shall be 2 inches by 3 inches and minimally contain (Penal Code § 25460):

- (a) Photograph of the retiree.
- (b) Retiree's name and date of birth.

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- (c) Date of retirement.
- (d) Name and address of this department.
- (e) A stamped endorsement "CCW Approved" along with the date by which the endorsement must be renewed (not more than one year). In the case in which a CCW endorsement has been denied or revoked, the identification card shall be stamped "No CCW Privilege."

207.4.2 QUALIFIED RETIREES FROM INCORPORATED JURISDICTION

The San Benito County Probation Department shall provide an identification card with a CCW Approved endorsement to honorably retired peace officers from any jurisdiction that this department now serves under the following conditions (Penal Code § 25905):

- (a) The retiree's previous agency is no longer providing law enforcement services or the relevant government body is dissolved.
- (b) This department is in possession of the retiree's complete personnel record or can verify the retiree's honorably retired status.
- (c) The retiree is in compliance with all of the requirements of this department for the issuance of a CCW Approved endorsement.

207.5 FORMER OFFICER RESPONSIBILITIES

A former officer with a card issued under this policy shall immediately notify the Chief Probation Officer or authorized designee of an arrest or conviction in any jurisdiction, or that the individual is the subject of a court order, in accordance with the Reporting of Arrests, Convictions, and Court Orders Policy.

207.5.1 RESPONSIBILITIES UNDER LEOSA

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

- (a) Sign a waiver of liability of the Department for all acts taken related to carrying a concealed firearm, acknowledging both 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 Department.
- (b) Remain subject to all applicable department 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 the individual is not prohibited by law from receiving or possessing a firearm.

207.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT

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

- (a) Qualify annually with the authorized firearm at a course approved by this department at the retired officer's expense.

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- (b) Remain subject to all applicable department policies and federal, state, and local laws.
- (c) Not engage in conduct that compromises public safety.

207.6 DENIAL, SUSPENSION, OR REVOCATION

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

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

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

- (a) In the event that a CCW endorsement is initially denied, the retired officer 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 Department 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. 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 Department, one selected by the retiree or the retiree's employee organization, and one selected jointly (Penal Code § 26320).
 1. The decision of such hearing board shall be binding on the Department 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 the identification card. The Department will then reissue a new identification card which shall be stamped "No CCW Privilege" (Penal Code § 26325(b)).
- (d) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the Chief Probation Officer or the authorized designee as soon as

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practicable. The Supervisor should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise the individual in writing of the following:

1. The retiree's concealed firearm CCW endorsement is immediately and temporarily suspended.
2. The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
3. The retiree will forfeit the right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Supervisor 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 Supervisor may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.
5. Notification of the temporary suspension should also be promptly mailed to the retiree via first-class mail, postage prepaid, return receipt requested.
 - (a) The Supervisor should document the investigation, the actions taken, and, if applicable, any notification made to the former member. The memo should be forwarded to the Chief Probation Officer.

207.7 FIREARM QUALIFICATIONS

The Firearms Instructor or Armorer may provide former officers from this department 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 Firearms Instructor or Armorer 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, members authorized to use force are 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 Conducted Energy Devices policies.

Nothing in this policy is intended to limit members' lawful ability to defend themselves.

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 officer 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 persons allow themselves 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 officer 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 officers authorized to use force is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

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Officers authorized to use force 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 duties.

The San Benito County Probation Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force in the performance of their duties requires monitoring, evaluation, and a careful balancing of all interests.

300.2.1 FAIR AND UNBIASED USE OF FORCE

Officers are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)).

300.2.2 DUTY TO INTERCEDE

Any officer 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 officer 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 officer should take into account the totality of the circumstances and the possibility that other law enforcement officers may have additional information regarding the threat posed by the subject (Government Code § 7286(b)).

300.2.3 FAILURE TO INTERCEDE

An officer 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 officer who used force beyond that which is necessary (Government Code § 7286(b)).

300.2.4 DUTY TO REPORT EXCESSIVE FORCE

Any officer who observes a law enforcement officer or an employee use force that potentially exceeds what the officer reasonably believes to be necessary shall immediately report these observations to a supervisor (Government Code § 7286(b); Penal Code § 832.13).

As used in this section, “immediately” means as soon as it is safe and feasible to do so.

300.3 USE OF FORCE

Officers authorized by the Chief Probation Officer to use force in arresting a client or preventing a client from escaping custody 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 officer 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 officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears necessary in a particular situation with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

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Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers 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 officers reasonably believe that it would be impractical or ineffective to use any of the approved or authorized tools, weapons, or methods provided by the Department. Officers 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 encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 ALTERNATIVE TACTICS - DE-ESCALATION

As time and circumstances reasonably permit, and when community and officer safety would not be compromised, officers should consider actions that may increase officer 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 officers before entering an unstable situation that does not reasonably appear to require immediate intervention.
- (c) Employing other tactics that do not unreasonably increase officer jeopardy.

In addition, when reasonable, officers 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:

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

300.3.2 USE OF FORCE TO EFFECT AN ARREST

Officers authorized by the Chief Probation Officer and California Penal Code § 830.5 may use objectively reasonable force to effect an arrest, to prevent escape, or to overcome resistance (Penal Code § 835).

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

300.3.3 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer 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 officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).
- (c) Officer/subject factors (e.g., age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer 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 officer commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the individual has been effectively restrained and the individual's 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 officer.
- (m) Potential for injury to officers, suspects, bystanders, and others.
- (n) Whether the individual appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.
- (o) The risk and reasonably foreseeable consequences of escape.
- (p) The apparent need for immediate control of the individual 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 officer or others.
- (r) Prior contacts with the individual or awareness of any propensity for violence.

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- (s) Any other exigent circumstances.

300.3.4 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers 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 individual can comply with the direction or orders of the officer.
- (c) Whether the individual has been given sufficient opportunity to comply.

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

300.3.5 RESTRICTIONS ON THE USE OF CAROTID CONTROL HOLD

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

300.3.6 RESTRICTIONS ON THE USE OF A CHOKE HOLD

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

300.3.7 ADDITIONAL RESTRICTIONS

Terms such as "positional asphyxia," "restraint asphyxia," and "excited delirium" continue to remain the subject of debate among experts and medical professionals, are not universally recognized medical conditions, and frequently involve other collateral or controlling factors such as narcotics or alcohol influence, or preexisting medical conditions. While it is impractical to restrict an officer's use of reasonable control methods when attempting to restrain a combative individual, officers are not authorized to use any restraint or transportation method which might unreasonably impair an individual's breathing or respiratory capacity for a period beyond the point when the individual has been adequately and safely controlled. Once the individual is safely secured, officers should promptly check and continuously monitor the individual's condition for signs of medical distress (Government Code § 7286.5).

300.3.8 USE OF FORCE TO SEIZE EVIDENCE

In general, authorized officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence.

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In the instance when force is used to seize evidence, officers 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. Officers are encouraged to use techniques and methods taught by the San Benito County Probation Department for this specific purpose.

300.3.9 USE OF FORCE TO PREVENT INGESTION OF EVIDENCE

Officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband (see the Medical Aid and Response Policy).

300.4 DEADLY FORCE APPLICATIONS

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

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers 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, officers should consider their surroundings and any potential risks to bystanders prior to discharging a firearm (Government Code § 7286(b)).

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

- (a) Officers may use deadly force to protect themselves or others from what they reasonably believe is an imminent threat of death or serious bodily injury to the officer or another person.
- (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

Officers shall not use deadly force against a person based on the danger that person poses to self, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer 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 officer 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 officer or another person. An officer'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, officers should take reasonable steps to move out of

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the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others (Government Code § 7286(b)).

Officers 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, officers 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 officer 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 officer 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 officer no longer perceives such threat.

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

300.5 REPORTING THE USE OF FORCE

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

300.5.1 REPORT RESTRICTIONS

Officers shall not use the term excited delirium to describe an individual in an incident report. Officers may describe the characteristics of an individual's conduct, but shall not generally describe the individual's demeanor, conduct, or physical and mental condition at issue as excited delirium (Health and Safety Code § 24402).

300.5.2 NOTIFICATION TO SUPERVISORS

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

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable officer to conclude that the individual may have experienced more than momentary discomfort.

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- (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 the conducted energy device (CED) or control device.
- (f) Any application of a restraint device other than handcuffs, shackles, or belly chains.
- (g) The individual subjected to the force was rendered unconscious.
- (h) An individual was struck or kicked.
- (i) An individual alleges unreasonable force was used or that any of the above has occurred.

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

300.5.3 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE

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

300.6 MEDICAL CONSIDERATIONS

Once it is reasonably safe to do so, properly trained officers 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 medically assessed.

Based upon the officer's initial assessment of the nature and extent of the individual's injuries, medical assistance may consist of examination by an emergency medical services provider or medical personnel at a hospital or 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 officer 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 officer 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 officer reasonably believes would be potential safety or medical risks to the subject (e.g., prolonged struggle, extreme agitation, impaired respiration).

Individuals 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 officers to be brought under control, may be at an increased risk of sudden death. Calls involving

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these persons should be considered medical emergencies. Officers who reasonably suspect a medical emergency should request medical assistance as soon as practicable and have medical personnel stage away (see the Medical Aid and Response Policy).

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 officers. 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 individual upon whom force was applied. If this interview is conducted without the individual having voluntarily waived *Miranda* rights, the following shall apply:
 1. The content of the interview should not be summarized or included in any related criminal charges.
 2. The fact that a recorded interview was conducted should be documented in a property or other report.
 3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.
- (d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas.
 1. 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 individual 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 noncompliance 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.

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300.7.1 ASSISTANT CHIEF PROBATION OFFICER RESPONSIBILITY

The Assistant Chief Probation Officer shall review each use of force by any personnel within the Assistant Chief Probation Officer's command to ensure compliance with this policy and to address any training issues.

300.8 USE OF FORCE COMPLAINTS

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

300.9 TRAINING

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

Subject to available resources, the Training Manager should ensure that officers receive periodic training on de-escalation tactics, including alternatives to force.

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

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

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

300.10 USE OF FORCE ANALYSIS

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

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

300.11 POLICY REVIEW

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

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300.13 PUBLIC RECORDS REQUESTS

Requests for public records involving an officer'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)).

Officer-Involved Shootings and Deaths

301.1 PURPOSE AND SCOPE

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

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

301.2 POLICY

The policy of the San Benito County Probation Department is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair, and impartial manner.

301.3 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 into policy compliance by involved officers.
- A civil investigation to determine potential liability.

301.3.1 CRIMINAL INVESTIGATIONS

The Chief Probation Officer should request that the law enforcement agency in whose jurisdiction the conduct occurred perform a criminal investigation into both the involved officer and the suspect.

301.3.2 ADMINISTRATIVE AND CIVIL INVESTIGATION

The San Benito County Probation Department may conduct an administrative and civil investigation of each involved officer.

301.4 INVESTIGATION PROCESS

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

301.4.1 OFFICER RESPONSIBILITIES

The officer should, as appropriate:

- (a) Notify a supervisor.
- (b) Notify the appropriate local law enforcement agency.
- (c) Request appropriate emergency medical services.
- (d) Request additional resources from the Department or other law enforcement agencies.

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301.4.2 SUPERVISOR RESPONSIBILITIES

Upon arrival at the scene, the San Benito County Probation Department supervisor should ensure completion of the duties outlined above, plus:

- (a) In the event a law enforcement investigator has not arrived, attempt to obtain a brief overview of the situation from any uninvolved officers.
 1. In the event 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) Each involved San Benito County Probation Department officer should be given an administrative order not to discuss the incident with other involved officers or San Benito County Probation Department members pending further direction from a supervisor.
- (c) As soon as practicable, in coordination with the supervising officer of the law enforcement investigator in charge of the criminal investigation, request that involved officers are transported (separately, if feasible) to a suitable location for further direction.
 1. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that the officer is provided with appropriate security.

301.4.3 NOTIFICATIONS

The supervisor is responsible for notification to the following persons as soon as practicable:

- Chief Probation Officer
- Assistant Chief Probation Officer
- District Attorney
- County Counsel
- Program Managers or Field Unit Supervisors
- Outside agency investigators
- Psychological/peer support personnel
- Clergy, if requested
- Presiding Judge
- Involved officer's agency representative, if requested

301.4.4 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal representation will be accommodated.

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1. Involved San Benito County Probation Department officers 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.
 - (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
 - (c) Discussions with employee groups will be privileged only as to the discussion of non-criminal information.
 - (d) A licensed psychotherapist should be provided by the Department to each involved San Benito County Probation Department officer. A licensed psychotherapist may also be provided to any other affected San Benito County Probation Department members, upon request.
 1. Interviews with a licensed psychotherapist will be considered privileged.
 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, the involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
 - (e) 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 law enforcement investigators or lab personnel can properly retrieve it.

Each involved San Benito County Probation Department officer should be given reasonable paid administrative leave after an officer-involved shooting or death. It shall be the responsibility of the Chief Probation Officer to make schedule adjustments to accommodate such leave.

301.5 CRIMINAL INVESTIGATION

The District Attorney's Office is responsible for the determination as to whether criminal charges are filed as a result of any officer-involved shooting involving injury or death.

Criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) San Benito County Probation Department supervisors should not participate directly in any voluntary interview of San Benito County Probation Department officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) Any voluntary statement provided by an involved officer will be made available for any related investigation, including administrative investigations. However, no

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administratively coerced statement will be provided to any criminal investigators unless the officer consents.

301.5.1 REPORTS BY INVOLVED SAN BENITO COUNTY PROBATION DEPARTMENT OFFICERS

In the event that suspects remain outstanding or subject to prosecution for related offenses, this department shall retain the authority to require involved San Benito County Probation Department officers to provide sufficient information for related criminal reports to facilitate the apprehension and prosecution of those individuals.

While the involved San Benito County Probation Department officer may write the report, it is generally preferred that such reports be limited to the report completed by the criminal investigators.

Nothing in this section shall be construed to deprive an involved San Benito County Probation Department officer of the right to consult with legal counsel prior to completing any such criminal report.

301.6 ADMINISTRATIVE INVESTIGATIONS

In addition to all other investigations associated with the incident, this department will conduct an internal administrative investigation of involved San Benito County Probation Department officers to determine conformance with department policy. This investigation will be conducted under the supervision of the Chief Probation Officer or the authorized designee and will be considered a confidential officer personnel file.

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

- (a) Any involved officer may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer 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 officer.
 1. If further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of the prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected not to provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.

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1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative collectively or in groups prior to being interviewed (Government Code § 3303(i)).
3. Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).
4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, the officer should be given *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
5. The assigned investigator shall compile all relevant information and reports necessary for the Chief Probation Officer to determine compliance with policies.
6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings to whether there was compliance with the Use of Force Policy.
7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

301.7 AUDIO AND VIDEO RECORDINGS

Any officer involved in a shooting or death may be permitted to review any video or audio recordings prior to providing a recorded statement or completing reports.

Upon request, non-department 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 video or audio recordings with the approval of assigned investigators or a supervisor.

Any video or audio recordings of an incident should not be publicly released during an ongoing investigation without consulting the prosecuting attorney or County Counsel, as appropriate.

301.8 DEBRIEFING

The San Benito County Probation Department should conduct both a critical incident stress debriefing and a tactical debriefing.

301.8.1 CRITICAL INCIDENT STRESS DEBRIEFING

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

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

Attendance at the debriefing should only include those members of the Department directly involved in the incident. Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory personnel and personnel assigned to conduct administrative investigations of this incident.

301.8.2 TACTICAL DEBRIEFING

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

301.9 MEDIA RELATIONS

Any media release shall be prepared with input and concurrence from the investigating law enforcement agencies. Releases will be available to the Chief Probation Officer and assigned investigators in the event of inquiries from the media.

No involved San Benito County Probation Department officer shall comment to the media unless authorized by the Chief Probation Officer or the authorized designee and the assigned law enforcement agency.

301.10 REPORTING

If the death, or shooting, of an individual occurs in any incident involving an officer of the San Benito County Probation Department and qualifies to be reported to the state, the Chief Probation Officer or the authorized designee will ensure that the Director of Administrative Services is provided with enough information to meet the reporting requirements (Government Code § 12525.2; Government Code § 12525).

Firearms

302.1 PURPOSE AND SCOPE

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

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

This policy only applies to those members who are authorized by law and the Chief Probation Officer to carry firearms.

302.2 POLICY

The San Benito County Probation Department may authorize and equip certain members with firearms for specified duties. The Department will ensure firearms are appropriate and in good working order and that relevant training is provided as resources allow.

302.3 AUTHORIZED FIREARMS, AMMUNITION, AND OTHER WEAPONS

Members may carry firearms consistent with the written authorization of the Chief Probation Officer identifying when a firearm may be carried and any limitations.

Authorized members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Firearms Instructor or Armorer. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that firearm at an authorized range.

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

302.3.1 HANDGUNS

The authorized department-issued handgun is the Glock Model 22 .40 (Smith & Wesson). The following additional handguns are approved for on-duty use by authorized members:

MAKE	MODEL	CALIBER
Glock	23	.40 S&W
Glock	26	9 mm
Glock	27	.40 S&W
Glock	43	9 mm
Glock	43X	9 mm
Glock	48	9 mm

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302.3.2 PERSONALLY OWNED DUTY FIREARMS

Members authorized by the Chief Probation Officer to carry a firearm in the performance of their duties who desire to carry a personally owned duty firearm must receive written approval from the Chief Probation Officer. Once approved, personally owned duty firearms are subject to the following restrictions:

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

302.3.3 AMMUNITION

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

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

302.4 EQUIPMENT

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

302.4.1 REPAIRS OR MODIFICATIONS

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

Firearms that are the property of the Department or personally owned firearms that are approved for department use may be repaired or modified only by a person who is department-approved and certified as an armorer or gunsmith in the repair of the specific firearm. Such modification or repair must be authorized in advance by the Firearms Instructor or Armorer and the Chief Probation Officer.

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Any repairs or modifications to the member's personally owned firearm shall be done at the member's expense and must be approved by the Firearms Instructor or Armorer and the Chief Probation Officer.

302.4.2 HOLSTERS

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

302.4.3 TACTICAL LIGHTS

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

302.4.4 OPTICS OR LASER SIGHTS

Officer are not authorized to modify department-issued firearms with optics or laser sights.

302.5 SAFE HANDLING, INSPECTION, AND STORAGE

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

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Firearms Instructor or Armorer. Members shall not dry fire or practice quick draws except as instructed by the Firearms Instructor or Armorer or other firearms training staff.
- (c) Members shall not clean, repair, load, or unload a firearm anywhere in the Department, except where clearing barrels are present.
- (d) Members shall not place or store any firearm or other weapon on department premises except where the place of storage is locked. No one shall carry firearms into a custodial facility when securing or processing an arrestee, but shall instead place all firearms in a secured location.
- (e) Any firearm authorized by the Department to be carried on-duty or off-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the Department or a Firearms Instructor or Armorer approved by the Department for inspection and repair. Any firearm deemed in need of repair or service by the Firearms Instructor or Armorer will be immediately removed from service. If the firearm is the member's primary duty firearm, a replacement firearm will be issued to the member until the duty firearm is serviceable.

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302.5.1 INSPECTION AND STORAGE

Handguns shall be inspected regularly and upon access or possession by another person. The member shall ensure that the firearm is carried in the proper condition and loaded with approved ammunition. All firearms shall be pointed in a safe direction or into clearing barrels.

Department-owned firearms and personally owned firearms may be safely stored in lockers at the end of the shift. Handguns may remain loaded if they are secured in an appropriate holster or in a gun locker.

302.5.2 STORAGE AT HOME

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

302.5.3 STORAGE IN VEHICLES

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

If the vehicle does not have a trunk or a locked container, 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).

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

302.5.4 ALCOHOL AND DRUGS

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

302.6 FIREARMS TRAINING AND QUALIFICATIONS

All members who carry a firearm while on-duty are required to successfully complete training quarterly with their duty firearms. All members will qualify at least quarterly with their duty firearms. Members will also qualify with personally owned duty firearms at least quarterly. Training and qualifications must be on an approved range course (Penal Code § 830.5).

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

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302.6.1 NON-CERTIFICATION OR NON-QUALIFICATION

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

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

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

302.7 FIREARMS DISCHARGE

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

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

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

302.7.1 DESTRUCTION OF ANIMALS

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

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, department members should develop reasonable contingency plans for dealing with the animal (e.g., presence of local law enforcement or animal control officer). Nothing in this

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policy shall prohibit any member from shooting a dangerous animal if circumstances reasonably dictate that a contingency plan has failed or becomes impractical.

302.7.2 WARNING AND OTHER SHOTS

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

302.8 RANGE DUTIES

The probation department range staff shall consist of a Rangemaster, Firearms Instructors, and Armorers.

302.8.1 RANGEMASTER

The Rangemaster duties include, but are not limited to, the following:

- (a) Development, implementation, operation, and oversight of the Firearms Training Program for the probation department, upon approval of the Chief Probation Officer.
- (b) Tracking of successful and unsuccessful completion of firearm specific training modules and qualification courses.
- (c) Review of individual progress regarding proficiency with firearms for armed probation officers.
- (d) Development and implementation of remediation programs for deputy probation officers as needed.
- (e) Provide recommendations via chain of command to the Chief Probation Officer regarding the arming of any deputy probation officer.
- (f) Provide direct instruction in the use of firearms to armed probation staff.
- (g) Ensure the department firearms program is conducted in a safe and responsible manner.
- (h) Ensure adequate range related supplies are available to meet the needs of the probation department firearms program.
- (i) Serve as the probation department Armorer.

302.8.2 FIREARMS INSTRUCTOR

A Firearms Instructor's duties include, but are not limited to the following:

- (a) Provide recommendations and input to the Rangemaster regarding the development, implementation, and operation of the probation department firearms training program.
- (b) Assist and support the implementation and operation of the probation department firearms training program.
- (c) Assist with the tracking of successful and unsuccessful completion of firearms specific training modules and qualifications courses.

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- (d) Provide recommendations, through the Rangemaster, via chain of command to the Chief Probation Officer regarding the arming of any deputy probation officer.
- (e) Provide direct instruction in the use of firearms to armed probation staff.
- (f) Ensure the department firearms program is conducted in a safe and responsible manner.
- (g) Assist with the inspection and maintenance of firearms approved to carry on-duty.

302.8.3 ARMORER

The probation department Armorer's duties will include, but are not limited to the following:

- (a) Ensure all firearms issued by the probation department are in working order and appropriate for use in the field.
- (b) Ensure the maintenance of all firearms issued or approved for carry by the probation department is current.
- (c) Maintain an inventory of all department firearms.
- (d) Maintain an inventory of all firearms related equipment.

302.9 FIREARMS INSTRUCTOR OR ARMORER DUTIES

The range will be under the exclusive control of the Firearms Instructor or Armorer. All members attending will follow the directions of the Firearms Instructor or Armorer. The Firearms Instructor or Armorer will maintain a roster of all members attending the range and will submit the roster to the Training Manager after each range date. Failure of any member to sign in and out with the Firearms Instructor or Armorer may result in non-participation or non-qualification.

The range shall remain operational and accessible to department members during hours established by the Department.

The Firearms Instructor or Armorer has the responsibility of making periodic inspection, at least once a year, of all duty firearms carried by members of this department to verify proper operation. The Firearms Instructor or Armorer has the authority to deem any department-issued or personally owned firearm unfit for service. The member will be responsible for all repairs to the personally owned firearm; it will not be returned to service until it has been inspected and approved by the Firearms Instructor or Armorer.

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

The Firearms Instructor or Armorer shall complete and submit to the Training Manager 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 Department, a list of each member who completes the training. The Firearms Instructor or Armorer should keep accurate records of all training shoots, qualifications, repairs, maintenance, or other records as directed by the Training Manager.

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302.10 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 officers who intend to be armed while flying on a commercial air carrier or flights where screening is conducted (49 CFR 1544.219):

- (a) Officers 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 Department based on the law and published TSA rules.
- (b) Officers must carry their San Benito County Probation Department identification card, bearing the officer's name, a full-face photograph, identification number, the officer's signature, and the signature of the Chief Probation Officer or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).
- (c) The San Benito County Probation Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the San Benito County Probation Department an NLETS message containing a unique alphanumeric identifier. The officer 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 Probation Officer authorizing armed travel may also accompany the officer. The letter should outline the officer's need to fly armed, detail the itinerary, and include that the officer has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of the officer's assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officer must keep the firearm concealed on the officer's person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Officers 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) Officers shall not consume alcoholic beverages while aboard an aircraft or within eight hours prior to boarding an aircraft.

Handcuffing and Restraints

303.1 PURPOSE AND SCOPE

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

This policy does not address the handcuffing and restraint of juveniles appearing in court or those already detained in, or committed to, a local secure juvenile facility, camp, ranch, or forestry camp.

303.2 POLICY

The San Benito County Probation Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy, and department training. Restraint devices shall not be used to punish, to display authority, or as a show of force.

303.3 USE OF RESTRAINTS

Only members who have successfully completed San Benito County Probation Department-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, officers should carefully balance officer safety concerns with factors that include but are not limited to:

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

303.3.1 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 officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion on the detainee.

303.3.2 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 officer has a reasonable suspicion that the person may resist, attempt escape, injure herself or others, or damage property.

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No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized determination that such restraints are necessary for the safety of the arrestee, officers, or others.

303.3.3 RESTRAINT OF JUVENILES

A juvenile younger than 14 years of age should not be restrained unless the juvenile is suspected of a dangerous felony or when the officer reasonably suspects that the juvenile may resist, attempt escape, self-injure, injure the officer, or damage property.

303.3.4 NOTIFICATIONS

Whenever an officer transports a person in restraints other than handcuffs, the officer shall inform the detention facility staff upon arrival at the facility that restraints were used. This notification should include information regarding any other circumstances the officer 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 detention facility.

303.4 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 Department unless required by law, other policy, or facility regulations. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers 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, officers 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.

303.5 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 mucus) to others.

Spit hoods may be placed upon a person in custody when the officer 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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Officers 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. Officers should provide assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Officers should avoid comingling those wearing spit hoods with other detainees.

Spit hoods should not be used in situations when 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 use.

303.6 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, but while permitting adequate movement, comfort, and mobility.

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

303.7 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 Department shall be used. "Hog-tying" is prohibited.

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

- (a) Whether the officer 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 the person's own actions (e.g., hitting head against the interior of the agency vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at the windows of the vehicle).

303.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

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

- (a) If practicable, officers 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.

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- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer 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 laid face-down for an extended period, as this could reduce the person's ability to breathe.
- (d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain prone in a face-down position.
- (e) The officer 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 officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

303.8 REQUIRED DOCUMENTATION

If a person is restrained and released without an arrest, the officer 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 case chronological notes. The officer should include, as appropriate:

- (a) How handcuffs were applied (e.g., double locked and gapped).
- (b) The amount of time the person was restrained.
- (c) How the person was transported and the position of the person during transport.
- (d) Observations of the person's behavior and any signs of physiological problems.
- (e) Any known or suspected drug use or other medical problems.
- (f) Any complaint regarding restraints being too tight and how the complaint was resolved.

303.9 TRAINING

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

Control Devices

304.1 PURPOSE AND SCOPE

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

This policy does not address the application of a control device on a juvenile who has already been detained.

304.2 POLICY

In order to control individuals who are violent or who demonstrate the intent to be violent, the Chief Probation Officer may authorize officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

304.3 ISSUING, CARRYING, AND USING CONTROL DEVICES

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

Only those members who have been authorized by the Chief Probation Officer and who have successfully completed department-approved training on this policy and 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 person who is violent or who demonstrates the intent to be violent and using the device appears reasonable under the circumstances. When reasonable, a verbal warning and opportunity to comply should precede the use of these devices.

304.4 RESPONSIBILITIES

304.4.1 RANGEMASTER RESPONSIBILITIES

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

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

304.4.2 USER RESPONSIBILITIES

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

Any damaged, inoperative, outdated, or expended control devices, along with documentation explaining the cause of the damage, shall be returned to the Firearms Instructor or Armorer for disposition. Documentation (e.g. a memorandum) shall also be forwarded through the chain of command, when appropriate, explaining the cause of damage.

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304.5 BATON GUIDELINES

The need to immediately control a subject 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 officer reasonably believes the subject poses an imminent threat of serious bodily injury or death to self or others.

When carrying a baton, uniformed personnel shall carry the baton in its authorized holder on the equipment belt. Non-uniformed and non-field personnel may carry the baton as authorized and in accordance with the needs of their assignments or at the direction of their supervisors.

304.6 OLEORESIN CAPSICUM GUIDELINES

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

304.6.1 TREATMENT FOR 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 who complain of further severe effects shall be examined by appropriate medical personnel.

304.7 POST-APPLICATION NOTICE

Whenever OC has been introduced into a residence, building interior, vehicle, or other enclosed area, the owners or available occupants should be provided 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 cleanup will be at the owner's expense. Information regarding how and when the notice was delivered and the individuals notified should be included in related reports.

304.8 TRAINING FOR CONTROL DEVICES

The Training Manager shall ensure that those members 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 member's training file.
- (c) Members who fail to demonstrate proficiency with the control device or knowledge of the Use of Force Policy will be provided remedial training. If a member cannot demonstrate proficiency with a control device or knowledge of the Use of Force Policy after remedial training, the member will be restricted from carrying the control device and may be subject to discipline.

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304.9 REPORTING USE OF CONTROL DEVICES

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

Conducted Energy Device

305.1 PURPOSE AND SCOPE

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

305.2 POLICY

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

305.3 ISSUANCE AND CARRYING CEDS

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

The Firearms Instructor, Armorer or Equipment Manager should keep a log of issued CEDs and the serial numbers of cartridges/magazines issued to members.

CEDs are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department inventory.

Officers shall only use the CED and cartridges/magazines that have been issued by the Department. Cartridges/magazines should not be used after the manufacturers' expiration date.

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

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

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

Non-uniformed officers may secure the CED in a concealed, secure location in the driver's compartment of their vehicles.

305.3.1 USER RESPONSIBILITIES

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

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

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305.4 VERBAL AND VISUAL WARNINGS

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

The purpose of the warning is to:

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

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

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

305.5 USE OF THE CED

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

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

305.5.1 APPLICATION OF THE CED

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

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

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

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

305.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

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

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.

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

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

305.5.3 TARGETING CONSIDERATIONS

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

305.5.4 MULTIPLE APPLICATIONS OF THE CED

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

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

Given that on certain devices (e.g., TASER 10™) each trigger pull deploys a single probe, the officer must pull the trigger twice to deploy two probes to create the possibility of neuro-muscular incapacitation.

305.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers should take appropriate actions to control and restrain the individual as soon as reasonably practicable to minimize the need for longer or multiple exposures to the CED. As soon as practicable, officers shall notify a supervisor any time the CED has been discharged in compliance with the Use of Force Policy. If needed for evidentiary purposes, the expended cartridge, along with any probes and wire, should be submitted into evidence (including confetti

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tags, when equipped on the device). The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

305.5.6 DANGEROUS ANIMALS

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

305.5.7 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department CEDs while off-duty.

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

305.6 DOCUMENTATION

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

305.6.1 CED REPORT FORM

As applicable based on the device type, items that shall be included in the CED report form are:

- (a) The brand, model, and serial number of the CED and any cartridge/magazine.
- (b) Date, time, and location of the incident.
- (c) Whether any warning, display, laser, or arc deterred a subject and gained compliance.
- (d) The number of probes deployed, CED activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the CED was used.
- (f) The type of mode used (e.g., probe deployment, drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.
- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any officers sustained any injuries.

The Training Manager should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Training Manager should also conduct audits of CED data

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downloaded to an approved location and reconcile CED report forms with recorded activations. CED information and statistics, with identifying information removed, should periodically be made available to the public.

305.6.2 REPORTS

The officer should include the following in their report:

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

305.7 MEDICAL TREATMENT

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

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

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

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

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

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305.8 SUPERVISOR RESPONSIBILITIES

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

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

305.9 TRAINING

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

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

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

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

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

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

The Training Manager should include the following training:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws until proficient to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes to the head, neck, area of the heart, and groin.
- (e) Scenario-based training, including virtual reality training when available.
- (f) Handcuffing a subject during the application of the CED and transitioning to other force options.
- (g) De-escalation techniques.

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- (h) Restraint techniques that do not impair respiration following the application of the CED.
- (i) Proper use of cover and concealment during deployment of the CED for purposes of officer safety.
- (j) Proper tactics and techniques related to multiple applications of CEDs.

Search and Seizure

306.1 PURPOSE AND SCOPE

Both the federal and state constitutions provide every individual with the right to be free from unreasonable searches and seizures. This policy provides general guidelines for San Benito County Probation Department personnel to consider when dealing with search and seizure issues.

306.2 POLICY

It is the policy of the San Benito County Probation Department to respect the fundamental privacy rights of individuals. Members of this department will conduct searches in strict observance of the constitutional rights of persons being searched. All seizures by this department will comply with relevant federal and state law governing the seizure of persons and property.

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

306.3 SEARCHES GENERALLY

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 to the rule that permit a warrantless search.

Examples of probation supervision activities that are exceptions to the general warrant requirement include but are not limited to searches pursuant to:

- Authorization under the terms or conditions of a person's release or supervision.
- Valid consent.
- Incident to a lawful arrest.
- Vehicle searches under certain circumstances.
- Exigent circumstances.

Certain other activities are recognized by federal and state courts and by certain statutes as legitimate activities that also do not require a warrant. Such activities may include seizure and examination of abandoned property, and observations of activities and property 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 department is expected to act in each situation according to current training and the member's familiarity with clearly established rights as determined by case law.

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

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306.4 SEARCH PROTOCOL

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

- (a) Members of this department will strive to conduct searches with **dignity and courtesy**.
- (b) Members of this department shall not conduct searches for arbitrary and capricious reasons.
- (c) Officers should explain to the person being searched the reason for the search and how the search will be conducted.
- (d) 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.
- (e) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations, or access codes when a search of locked property is anticipated.
- (f) Whenever practicable, a search should not be conducted by a lone officer. A cover officer should be positioned to ensure safety and should not be involved in the search.
- (g) When the person to be searched is of the opposite sex as the searching officer, a reasonable effort should be made to summon an officer of the same sex as the subject to conduct the search. When it is not practicable to summon an officer of the same sex as the subject, these guidelines should be followed:
 1. Another officer or a supervisor should witness the search.
 2. The officer should not search areas of the body covered by tight-fitting clothing, sheer clothing, or clothing that could not reasonably conceal a weapon.

306.5 DOCUMENTATION

Officers are responsible for documenting any search and ensuring that any required reports are sufficient, including, at a minimum, documentation of:

- 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 officer of the same sex as the person being searched and the identification of any witness officer.

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

Canines

307.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of canines to augment services in the community, including but not limited to locating contraband.

307.2 POLICY

It is the policy of the San Benito County Probation Department that handlers and canines meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate law enforcement objectives.

307.3 ASSIGNMENT

Canine teams should be assigned to primarily assist and supplement the Adult and Juvenile Services Units. However, they may be assigned by the Supervisor to other functions, such as routine field operations, based on the current operational needs.

Canine teams generally should not be assigned to handle routine matters that will take them out of service for extended periods of time and then only with the approval of the Supervisor.

307.4 REQUESTS FOR CANINE TEAM

Department members are encouraged to request the use of a canine. Requests for a canine team from outside agencies shall be reviewed by the Assistant Chief Probation Officer.

307.4.1 OUTSIDE AGENCY REQUEST

All requests for canine assistance from outside agencies must be approved by the Assistant Chief Probation Officer and are subject to the following:

- (a) Canine teams shall not be used for any assignment that is not consistent with this policy.
- (b) The canine handler shall have the authority to decline a request for any specific assignment the handler deems unsuitable.
- (c) Calling out off-duty canine teams is discouraged.
- (d) It shall be the responsibility of the canine handler to coordinate operations with agency personnel in order to minimize the risk of unintended injury.
- (e) It shall be the responsibility of the canine handler to complete all necessary reports or as directed.

307.4.2 PUBLIC DEMONSTRATION

All public requests for a canine team shall be reviewed and, if appropriate, approved by the Chief Probation Officer or authorized designee prior to making any resource commitment. The Chief Probation Officer or authorized designee is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols. Canine handlers shall not demonstrate any apprehension work unless authorized to do so by the Chief Probation Officer or authorized designee.

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307.5 DEPLOYMENTS, BITES, AND INJURIES

307.5.1 REPORTING DEPLOYMENTS, BITES, AND INJURIES

Any unintended bite or injury caused by a canine, whether on- or off-duty, shall be promptly reported to the Assistant Chief Probation Officer. 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 department evidence procedures. The photographs shall be retained until the criminal proceeding is completed and the time for any related civil proceeding has expired.

307.6 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 present an imminent threat to officers, 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.
- (b) Unless otherwise directed by a supervisor, assisting members should take direction from the handler 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 establish communication with the handler.
- (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.

307.6.1 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.

307.6.2 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.

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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.

307.6.3 BOMB/EXPLOSIVE DETECTION

Because of the high risk of danger to the public and officers 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.

307.6 HANDLER SELECTION

The minimum qualifications for the assignment of canine handler include:

- (a) An officer who is currently off probation.
- (b) Residing in an adequately fenced, single-family residence (minimum 5-foot-high fence with locking gates).
- (c) Having a garage that can be secured and can accommodate a canine vehicle.
- (d) Living within 30 minutes travel time from the County limits.
- (e) Agreeing to be assigned to the position for a minimum of at least three years.

307.7 HANDLER RESPONSIBILITIES

The canine handler shall ultimately be responsible for the health and welfare of the canine and shall ensure that the canine receives proper nutrition, grooming, training, medical care, affection, and living conditions.

The canine handler will be responsible for the following:

- (a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under the handler's control in a clean and serviceable condition.

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- (c) When not in service, the handler shall maintain the canine vehicle in a locked garage, away from public view.
- (d) When a handler is off-duty for an extended number of days, the assigned canine vehicle should be stored at the San Benito County Probation Department facility.
- (e) Handlers shall permit the Chief Probation Officer or authorized designee to conduct spontaneous on-site inspections of affected areas of their homes and their canine vehicles, to verify that conditions and equipment conform to this policy.
- (f) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the Supervisor as soon as possible.
- (g) When off-duty, the canine shall be in a kennel provided by the San Benito County Probation Department at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.
- (h) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.
- (i) Under no circumstances will the canine be lodged at another location unless approved by the Supervisor.
- (j) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the Supervisor.
- (k) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the Supervisor so that appropriate arrangements can be made.

307.7.1 CANINE IN PUBLIC AREAS

The canine should be kept on a leash when in areas that allow access to the public. Exceptions to this rule would include specific law enforcement operations for which the canine is trained.

- (a) A canine shall not be left unattended in any area to which the public may have access.
- (b) When the canine vehicle is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the canine. The handler shall also ensure that the unattended vehicle remains inhabitable for the canine.

307.8 HANDLER COMPENSATION

The canine handler shall be available for call-out under conditions specified by the Supervisor.

The canine handler shall be compensated for time spent in the care, feeding, grooming, and other needs of the canine in accordance with the Fair Labor Standards Act (FLSA), and according to the terms of the collective bargaining agreement or memorandum of understanding and the San Benito County Probation Department (29 USC § 207).

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307.9 CANINE INJURY AND MEDICAL CARE

If a canine is injured, or there is an indication that the canine is not in good physical condition, the injury or condition will be reported to the Supervisor or Assistant Chief Probation Officer as soon as practicable and appropriately documented.

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be maintained in the handler's personnel file.

307.10 TRAINING

Before assignment in the field, each canine team shall be trained and certified to meet current minimum POST guidelines. Cross-trained canine teams or those canine teams trained exclusively for the detection of narcotics and/or explosives also shall be trained and certified to meet current POST guidelines, nationally recognized standards, or other recognized and approved certification standards established for their particular skills.

The Supervisor shall be responsible for scheduling periodic training for all department members in order to familiarize them with how to conduct themselves in the presence of department canines.

All canine training shall be conducted while on-duty unless otherwise approved by the Supervisor or Assistant Chief Probation Officer.

307.10.1 CONTINUED TRAINING

Each canine team shall thereafter be recertified to a current nationally recognized standard or other recognized and approved certification standards on an annual basis. Additional training considerations are as follows:

- (a) Canine teams should receive 16 hours of training monthly as defined by POST guidelines in addition to training identified in the current contract with the San Benito County Probation Department canine training provider.
- (b) Canine handlers are encouraged to engage in additional training with approval of the canine coordinator.
- (c) To ensure that all training is consistent, no handler, trainer, or outside vendor may train to a standard not reviewed and approved by the department.

307.10.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

Any canine team failing to graduate or obtain certification shall not be deployed in the field for tasks the team is not certified to perform until graduation or certification is achieved. When reasonably practicable, pending successful certification, the canine handler shall be temporarily reassigned to regular field duties.

307.10.3 TRAINING RECORDS

All canine training records shall be maintained in the canine handler's and the canine's training file.

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307.10.4 TRAINING AIDS

Training aids are required to effectively train and maintain the skills of canines. Officers possessing, using, or transporting controlled substances or explosives for canine training purposes must comply with applicable federal and state requirements. Alternatively, the San Benito County Probation Department may work with outside trainers with the applicable licenses or permits.

307.10.5 CONTROLLED SUBSTANCE TRAINING AIDS

Officers acting in the performance of their official duties may possess or transfer controlled substances for the purpose of narcotics-detection canine training in compliance with state and federal laws (21 USC § 823(f); Health and Safety Code § 11367.5).

The Chief Probation Officer or the authorized designee may authorize a member to seek a court order to allow controlled substances seized by the San Benito County Probation Department to be possessed by the member or a narcotics-detection canine trainer who is working under the direction of this department for training purposes, provided the controlled substances are no longer needed as criminal evidence.

As an alternative, the Chief Probation Officer or the authorized designee may request narcotics training aids from the Drug Enforcement Administration (DEA).

These procedures are not required if the canine handler uses commercially available synthetic substances that are not controlled narcotics.

307.10.6 CONTROLLED SUBSTANCE PROCEDURES

Due to the responsibilities and liabilities involved with possessing readily usable amounts of controlled substances and the ever-present danger of the canine's accidental ingestion of these controlled substances, the following procedures shall be strictly followed:

- (a) All controlled substance training samples shall be weighed and tested prior to dispensing to the individual canine handler or trainer.
- (b) The weight and test results shall be recorded and maintained by this department.
- (c) Any person possessing controlled substance training samples pursuant to court order or DEA registration shall maintain custody and control of the controlled substances and shall keep records regarding any loss of, or damage to, those controlled substances.
- (d) All controlled substance training samples will be inspected, weighed, and tested quarterly. The results of the quarterly testing shall be recorded and maintained by the Supervisor with a copy forwarded to the dispensing agency.
- (e) All controlled substance training samples will be stored in locked, airtight, and watertight cases at all times except during training. The locked cases shall be secured in the trunk of the canine handler's assigned vehicle during transport and stored in an appropriate locked container. There are no exceptions to this procedure.
- (f) The Supervisor shall periodically inspect every controlled substance training sample for damage or tampering and take any appropriate action.

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- (g) Any unusable controlled substance training samples shall be returned to the Evidence Clerk or to the dispensing agency.
- (h) All controlled substance training samples shall be returned to the dispensing agency upon the conclusion of the training or upon demand by the dispensing agency.

307.10.7 EXPLOSIVE TRAINING AIDS

Officers may possess, transport, store, or use explosives or destructive devices in compliance with state and federal laws (18 USC § 842; 27 CFR 555.41; Penal Code § 18800).

Explosive training aids designed specifically for canine teams should be used whenever feasible. Due to the safety concerns in the handling and transportation of explosives, inert or non-hazardous training aids should be employed whenever feasible. The use of explosives or destructive devices for training aids by canine teams is subject to the following:

- (a) All explosive training aids, when not in use, shall be properly stored in a secure facility appropriate for the type of materials.
- (b) An inventory ledger shall be maintained to document the type and quantity of explosive training aids that are stored.
- (c) The Supervisor shall be responsible for verifying the explosive training aids on hand against the inventory ledger once each quarter.
- (d) Only members of the canine team shall have access to the explosive training aids storage facility.
- (e) A primary and secondary custodian will be designated to minimize the possibility of loss of explosive training aids during and after the training. Generally, the handler will be designated as the primary custodian while the trainer or authorized second person on-scene will be designated as the secondary custodian.
- (f) Any lost or damaged explosive training aids shall be promptly reported to the Supervisor, who will determine if any further action will be necessary. Any loss of explosives will be reported to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF).

Mandatory Reporting

308.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for notification to the appropriate social services entities and local law enforcement in the case of encountered, reported, or suspected abuse.

This policy also addresses documentation specific to the discovery of abuse.

308.2 POLICY

It is the policy of the San Benito County Probation Department to ensure documentation and notification to the proper entity, as may be required by law, in the case of encountered, reported, or suspected abuse.

308.3 CHILD ABUSE

308.3.1 NOTIFICATION

Members of this department who are mandated reporters of child abuse pursuant to Penal Code § 11165.7 shall notify law enforcement or the County Welfare Office when the member has knowledge of or observes a child who the member knows or reasonably suspects has been the victim of child abuse or neglect (Penal Code § 11165.9; Penal Code § 11166).

When the San Benito County Probation Department receives a report of abuse or neglect, notification shall be made to the law enforcement agency having jurisdiction and the County Welfare Office.

The District Attorney's office shall also be notified in all instances of known or suspected child abuse or neglect reported to the San Benito County Probation Department, except the following (Penal Code § 11166; Penal Code § 11165.2; Penal Code § 11165.13).

- (a) A report of general neglect by a person who has the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision, and where there is no physical injury to the child.
- (b) A report of a positive toxicology screen at the time of the delivery of an infant, unless there is an indication of maternal substance abuse.

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).

For purposes of notification, 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); willful harm or injury to a child or endangering the person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury (Penal Code

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§ 11165.4). Child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of employment as a peace officer.

308.3.2 NOTIFICATION PROCEDURE

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

- (a) When the member is making an initial notification:
 - 1. Notification shall be made immediately, or as soon as practicable, by telephone.
 - 2. A written follow-up mandated report shall be forwarded by fax or electronic transmission within 36 hours of receiving the information concerning the incident.
- (b) When the San Benito County Probation Department is making notification:
 - 1. Notification shall be made immediately, or as soon as practicable, by telephone, fax, or electronic transmission.
 - 2. A written report ([CA DOJ Suspected Child Abuse Report](#)) shall be forwarded by fax or electronic transmission within 36 hours of receiving the information concerning the incident.
 - 3. For cases involving the commercial sexual exploitation of a child who is receiving child welfare services, notification shall be made within 24 hours to a law enforcement agency that has jurisdiction over a case.
 - 4. For cases involving a child who is receiving child welfare services who is reasonably believed to be the victim of commercial sexual exploitation and is missing or has been abducted, notification shall be made to the appropriate law enforcement authority within 24 hours for entry into NCIC and to the National Center for Missing and Exploited Children.

308.3.3 EMERGENCY REMOVAL

An officer may take temporary custody of a minor without a warrant when the officer reasonably believes that the minor (Welfare and Institutions Code § 300; Welfare and Institutions Code § 305):

- (a) Is in immediate need of medical care.
- (b) Is in immediate danger of physical or sexual abuse.
- (c) Is in a physical environment that poses an immediate threat to the minor's health or safety.
- (d) Is left unattended, posing an immediate threat to the minor's health or safety.
 - 1. Officers shall attempt to contact the parent or guardian to take custody of the unattended child.
 - 2. If contact with the parent or guardian of the unattended minor cannot be made, the County Welfare Office shall be contacted to assume custody of the minor.
- (e) Is in the hospital and release to the parent poses an immediate threat to the minor's health or safety.

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- (f) Is a dependent of the juvenile court and the officer reasonably believes that the juvenile has violated an order of the court.
- (g) Has left any placement ordered by the juvenile court.
- (h) Requires medical or other care after having been found suffering from injury or sickness in a public place.

308.4 ELDER AND ADULT DEPENDENT ABUSE

308.4.1 NOTIFICATION

Members of this department who are mandated reporters of elder or dependent adult abuse pursuant to Welfare and Institutions Code § 15630 shall notify the county adult protective services agency of known, suspected, or alleged instances of abuse when the member reasonably suspects, has observed, or has 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 individual has experienced abuse.

For purposes of notification, a dependent adult is an individual between 18 and 64 years of age who has physical or mental limitations that restrict the ability to carry out normal activities or to protect the individual's rights, including but not limited to persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This also includes those admitted as inpatients to a 24-hour health facility, as defined in state law (Welfare and Institutions Code § 15610.23). An elder adult is an individual residing in this state who is age 65 or older (Welfare and Institutions Code § 15610.27).

For purposes of notification, abuse is physical abuse, abandonment, abduction, isolation, financial abuse, or neglect. Physical abuse includes any assault or sex crime (Welfare and Institutions Code § 15610.63). Financial abuse includes taking personal or real property by undue influence or intent to defraud (Welfare and Institutions Code § 15610.30).

Because additional notifications may also be required, depending on where the alleged abuse occurred, the supervisor is responsible for ensuring that proper notifications are made to the District Attorney's Office and any other regulatory agency that may be applicable (e.g., care facility, hospital) (Welfare and Institutions Code § 15630).

308.4.2 NOTIFICATION PROCEDURE

Notification should occur as follows (Welfare and Institutions Code § 15630):

- (a) Notification shall be made immediately, or as soon as practicable, by telephone, fax, or electronic transmission.
- (b) A written report ([Report of Suspected Dependent Adult/Elder Abuse Report - SOC 341](#)) shall be forwarded within two working days.

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308.5 DOCUMENTATION

In all encountered, reported, or suspected cases of abuse, officers should, after making the notifications above, document the notification and the circumstances surrounding discovery of the abuse.

308.6 CONFIDENTIALITY OF REPORTS

Information related to incidents of abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Penal Code § 11167.5; Welfare and Institutions Code § 15633).

Victim and Witness Assistance

309.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure that members address victim- and witness-related issues appropriately.

309.2 POLICY

The San Benito County Probation Department recognizes the difficulties faced by victims and witnesses of crime. The members of the San Benito County Probation Department will treat victims with compassion and provide them the services required by law.

309.3 RESPONSIBILITIES

Member responsibilities include the following:

- (a) Members preparing a pre-sentence/social study investigation are expected to include available information regarding the impact of the offense on the victim and the victim's family and any sentencing/disposition recommendations from the victim as required by California Constitution Article I § 28.
- (b) Officers who supervise a client requesting a transfer to another county shall provide written notice of the date, time, and place set for hearing on the motion to the victim, if a victim exists (Cal. Rules of Court, Rule 4.530).
- (c) Members should follow county protocol as applicable regarding notice to witnesses who were threatened by the offender following the offender's arrest and each victim or next of kin of the victim of a violent offense of their right to request and receive a release notification (Penal Code § 679.03).
- (d) Officers should provide victims, or the parents or guardians of the victim if the victim is a minor, or the next of kin of the victim if the victim has died written material containing their rights pursuant to Penal Code § 1191.1 and Penal Code § 1191.2.
- (e) Members will notify a victim of domestic violence or abuse, or a victim of stalking of the offender's current community of residence or proposed community of residence when the offender is being placed on or being released on probation when the victim has requested notification and provided the department with a current address for notification (Penal Code § 679.06).

309.4 VICTIM SAFETY

Officers 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. Officers should never guarantee that a person qualifies as a victim for the purpose of compensation or restitution but may direct the person to the proper written department material or available victim resources.

Officers should report all known allegations of victim intimidation to the appropriate local law enforcement agency and prosecutor as soon as practicable.

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Victim and Witness Assistance

309.5 VICTIM INFORMATION

Written victim information materials should include:

- (a) Shelters and other community resources for victims, including domestic violence and sexual assault victims.
- (b) An advisement that a person who was arrested may be released on bond, probation, or other forms of release and that the victim should not rely upon such status or supervision as a guarantee of safety.
- (c) A clear explanation of relevant court orders and how they can be obtained.
- (d) Information regarding available compensation for qualifying victims of crime.
- (e) 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 adult offender's custody status and to register for automatic notification when a person is released from jail.
- (f) Notice regarding U visa and T visa application processes.
- (g) Resources available for victims of identity theft.
- (h) Victims' rights provided in Penal Code § 1191.1 and Penal Code § 1191.2, including:
 - 1. Their right to attend all sentencing or disposition proceedings.
 - 2. Adequate notice of all sentencing or disposition proceedings.
 - 3. Information concerning the victim's right to civil recovery against the offender.
 - 4. The requirement that the court order restitution for the victim.
 - 5. The victim's right to receive a copy of the restitution order from the court and to enforce the restitution order as a civil judgment.
 - 6. The victim's responsibility to furnish the probation department, district attorney, and court with information relevant to any losses.
 - 7. The victim's opportunity to be compensated from the Restitution Fund if eligible. This information shall be in the form of written material prepared by the Judicial Council in consultation with the California Victim Compensation Board, shall include the relevant sections of the Penal Code, and shall be provided to each victim for whom the probation officer has a current mailing address.

309.6 WITNESSES

Officers should never guarantee a witness' safety from future harm or that the witness's identity will always remain confidential. Officers may make practical safety suggestions to witnesses who express fear of future harm or retaliation.

Officers should report all known allegations of witness intimidation to the appropriate local law enforcement agency and prosecutor as soon as practicable.

Information Technology Use

310.1 PURPOSE AND SCOPE

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

310.1.1 DEFINITIONS

Definitions related to this policy include:

Computer system - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented, or licensed by the San Benito County Probation Department 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 Department or department 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.

310.2 POLICY

It is the policy of the San Benito County Probation Department that members shall use information technology resources, including computers, software, and systems, that are issued or maintained by the Department in a professional manner and in accordance with this policy.

310.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy regarding 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 department computer system.

The Department 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 Department, including the department email system, computer network, and/or any information placed into storage on any department system or device. This includes records of all keystrokes or web-browsing history made at any department computer or over any department 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 department computers, electronic devices, or networks.

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

310.4 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 supervisor.

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

310.4.1 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 department computer. Members shall not install personal copies of any software on any department 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 Probation Officer or the authorized designee.

No member shall knowingly make, acquire, or use unauthorized copies of computer software that is not licensed to the Department while on department premises, computer systems, or electronic devices. Such unauthorized use of software exposes the Department and involved members to severe civil and criminal penalties.

Introduction of software by members should only occur as a part of the automated maintenance or update process of department- 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 members and a full scan for malicious attachments.

310.4.2 HARDWARE

Access to technology resources provided by or through the Department shall be strictly limited to department-related activities. Data stored on or available through department 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 department-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

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310.4.3 INTERNET USE

Internet access provided by or through the Department shall be strictly limited to department-related activities. Internet sites containing information that is not appropriate or applicable to department use and which shall not be intentionally accessed include but are not limited to adult forums, pornography, gambling, chat rooms, and similar or related internet sites. Certain exceptions may be permitted with the express approval of a supervisor as a function of a member's assignment.

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

310.4.4 OFF-DUTY USE

Members shall only use technology resources provided by the Department while on-duty or in conjunction with specific on-call assignments unless specifically authorized by a supervisor. This includes the use of telephones, cell phones, texting, email, or any other off-the-clock work-related activities. This also applies to personally owned devices that are used to access department resources.

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

310.5 PROTECTION OF SYSTEMS AND FILES

All members have a duty to protect the computer system and related systems and devices from physical and environmental damage and are responsible for the correct use, operation, care, and maintenance of the computer system.

Members shall ensure department 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, login 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.

310.6 INSPECTION AND 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 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 Department involving one of

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its members or a member's duties, an alleged or suspected violation of any department 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 department computer system when requested by a supervisor or during the course of regular duties that require such information.

Department Use of Social Media

311.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that any use of social media on behalf of the Department is consistent with the department mission.

This policy does not address all aspects of social media use. Specifically, it does not address:

- Personal use of social media by department members (see the 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 compliance monitoring (see the Compliance Monitoring Policy).

311.1.1 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 department website or social networking services.

311.2 POLICY

The San Benito County Probation Department will use social media as a method of effectively informing the public about department services, issues, investigations, recruitment, and other relevant events.

Department members shall ensure that the use or access of social media is done in a manner that protects the constitutional rights of all people.

311.3 AUTHORIZED USERS

Only members authorized by the Chief Probation Officer or the authorized designee may utilize social media on behalf of the Department. Authorized members shall use only department-approved equipment during the normal course of duties to post and monitor department-related social media, unless they are specifically authorized to do otherwise by their supervisors.

The Chief Probation Officer 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 department social media by members who are not authorized to post should be made through the member's chain of command.

311.4 AUTHORIZED CONTENT

Only content that is appropriate for public release, that supports the department mission, and that conforms to all department policies regarding the release of information may be posted.

Examples of appropriate content include:

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- (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 department mission.
- (e) Real-time safety information that is related to in-progress crimes, geographical warnings, or disaster information.
- (f) Traffic information.
- (g) Media releases.
- (h) Recruitment of personnel.

311.4.1 INCIDENT-SPECIFIC USE

In instances of active incidents where speed, accuracy, and frequent updates are paramount, the Public Information Officer or the authorized designee will be responsible for the compilation of information to be released, subject to the approval of the Incident Supervisor.

311.5 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 investigation.
- (d) Any information that could tend to compromise or damage the mission, function, reputation, or professionalism of the San Benito County Probation Department or its members.
- (e) Any information that could compromise the safety and security of department operations, members of the Department, victims, client, 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 this department's social media site that the member 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.

311.5.1 PUBLIC POSTING PROHIBITED

Department social media sites shall be designed and maintained to prevent posting of content by the public.

The Department may provide a method for members of the public to contact department members directly.

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311.6 MONITORING CONTENT

The Chief Probation Officer will appoint a supervisor to review, at least annually, the use of department 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.

311.7 RETENTION OF RECORDS

The Administrative Services Specialist should 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.

311.8 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, and dissemination and retention of information posted on department sites.

Report Preparation

312.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the Department who complete reports as a part of their duties.

312.2 POLICY

It is the policy of the San Benito County Probation Department that members shall act with promptness and efficiency in the preparation and processing of all reports. Reports shall document sufficient information to refresh the member's memory and shall provide enough detail for follow-up investigation and successful prosecution.

312.3 EXPEDITIOUS REPORTING

Incomplete reports, unorganized reports, or reports that are delayed without supervisory approval are not acceptable. Reports shall be processed according to established priorities or to a special priority necessary under exceptional circumstances.

312.4 REPORT PREPARATION

Reports should be sufficiently detailed for their purpose and free from errors prior to submission and approval. Members are responsible for completing and submitting all reports taken during the shift before going off-duty unless permission to hold the report has been approved by a supervisor. Generally, reports requiring prompt follow-up action on active leads or arrest reports where the suspect remains in custody should not be held.

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. Members shall not suppress, conceal, or distort the facts of any reported incident, nor shall any member make a false report orally or in writing. Generally, the reporting member's opinions should not be included in reports unless specifically identified as such.

312.4.1 HANDWRITTEN OR TYPED REPORTS

Handwritten reports must be prepared legibly. If the report is not legible, the submitting member will be required by the reviewing supervisor to promptly make corrections and resubmit the report.

In general, the narrative portion of reports where an arrest is made or when there is a long narrative should be typed.

Members who generate reports on computers are subject to all requirements of this policy.

312.4.2 ELECTRONIC SIGNATURES

The San Benito County Probation Department has established an electronic signature procedure for use by all members of the San Benito County Probation Department. The IT Manager or Supervisor shall be responsible for maintaining the electronic signature system, ensuring that each member creates a unique, confidential password for the electronic signature, and ensuring that the use of electronic signatures otherwise complies with the law (Government Code § 16.5):

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- (a) Members may only use their electronic signatures for official reports or other official communications.
- (b) Each member shall be responsible for the security and use of the electronic signature and shall promptly notify a supervisor if the electronic signature has or may have been compromised or misused.

312.4.3 NOTATION OF INFORMATION RECEIVED FROM THIRD PARTIES

When information included in a report was received from a third party that is not an identified law enforcement, probation, parole, or corrections agency, the member authoring the report should state which specific information was obtained from a third party and whether it was independently confirmed by a member from the Department.

312.5 ADULT REQUIRED REPORTING

In all of the following situations, members shall complete reports using the appropriate department-approved forms and reporting methods, unless otherwise approved by a supervisor.

The reporting requirements are not intended to be all-inclusive. A member may complete a report if the member deems it necessary or as directed by a supervisor.

312.5.1 REPORTS TO THE COURT

As appropriate and necessary, officers should prepare and file with the court the following reports:

- (a) A pretrial diversion report, if requested by the court, as to the suitability of a person for pretrial diversion (Penal Code § 1000.1(5)(b)).
- (b) A presentence report for adult clients upon referral of a felony conviction from the court (Penal Code § 1203).
 - 1. The report should include a recommendation of whether the client should be granted probation and recommended conditions of probation, if granted (Penal Code § 1203).
 - 2. The report should be consistent with the requirements of Penal Code 1203(a) and Court Rule 4.411.5 (Penal Code §1203).
- (c) A conduct and worktime credit estimate to be filed with the court at the time of sentencing (Penal Code § 1191.3).
 - 1. The estimate shall also be provided to the victim.
- (d) A domestic violence report if a client has been granted probation for a violation of the domestic violence code (Penal Code § 1203.097(b)).
 - 1. The report should include recommendations of an appropriate batterer's program for the client.

312.5.2 CRIMINAL ACTIVITY AND VIOLATION CONDUCT

When a member becomes aware of any activity where a crime or violation of probation or supervised release has occurred, the member shall document the incident regardless of whether a victim desires prosecution.

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Activity to be documented in an incident or arrest report includes:

- (a) All arrests.
- (b) All felony crimes.
- (c) Non-felony criminal incidents involving threats or stalking behavior.
- (d) Situations covered by the Use of Force Policy.
- (e) All misdemeanor crimes where the victim desires a report.
- (f) All violations of probation or supervised release.

Misdemeanor crimes where the victim does not desire a report shall be documented using the department-approved alternative reporting method.

312.5.3 NON-CRIMINAL ACTIVITY AND NON-VIOLATION CONDUCT

Non-criminal activity to be documented includes:

- (a) Any found property or found evidence.
- (b) All protective custody and welfare detentions.
- (c) Any time a person is reported missing, regardless of jurisdiction.
- (d) Suspicious incidents that may indicate a potential for crimes against children or that a child's safety is in jeopardy.
- (e) Suspicious incidents that may place the public or others at risk.
- (f) Any use of force by members of this department against any person (see the Use of Force Policy).
- (g) Any firearm discharge (see the Firearms Policy).
- (h) Any time a member points a firearm at any person.
- (i) Any traffic accidents, involving department vehicles or members involved in County business, above the minimum reporting level (see the Vehicle Use, Safety, and Maintenance Policy).
- (j) Whenever the member believes the circumstances should be documented or at the direction of a supervisor.

312.5.4 MISCELLANEOUS INJURIES

Any injury reported to this department shall require an incident report when:

- (a) The injury is the result of drug overdose.
- (b) There is an attempted suicide.
- (c) The injury is major or serious and potentially fatal.
- (d) The circumstances surrounding the incident are suspicious in nature and it is desirable to document the event.
- (e) The injury is to a person in a member's custody or care.

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312.6 JUVENILE REPORTING

Officers may be required to complete reports relating to juvenile clients in any of the following scenarios. Officers should complete reports consistent with the appropriate department forms and reporting methods, unless otherwise approved by a supervisor. The reports referenced herein are not intended to be all-inclusive.

312.6.1 SOCIAL STUDY REPORT

Officers shall prepare and file with the court a social study, prepared pursuant to the requirements of Welfare and Institutions Code § 706.5, as follows (Welfare and Institutions Code § 727.4):

- (a) At least 10 days before a permanency hearing held pursuant to Welfare and Institutions Code § 727.3.
- (b) At least 10 days before a placement review hearing held pursuant to Welfare and Institutions Code § 727.2.
- (c) After any hearing during which the court has ordered a minor into the supervision of the officer for placement (Welfare and Institutions Code § 727).

312.6.2 ADDITIONAL REPORTS

Officers should also:

- (a) Prepare and file periodic reports and special reports, as appropriate, with the Office of Youth and Community Restoration pursuant to the requirements of, and on forms provided by, the Office of Youth and Community Restoration (Welfare and Institutions Code § 284).
- (b) Make periodic reports to the Attorney General pursuant to the requirements of the Attorney General (Welfare and Institutions Code § 285).
- (c) Prepare and file with the court written reports and recommendations as requested by the court with regard to custody, status, or welfare of a minor. Reports shall be prepared consistent with the requirements of Welfare and Institutions Code § 281.

312.7 COUNTY PERSONNEL OR PROPERTY

Incidents involving County personnel or property shall require a report when:

- (a) An injury occurs as the result of an act of a County employee or on County property.
- (b) There is damage to County property or equipment.

312.8 REVIEW AND CORRECTIONS

Supervisors shall review reports for content and accuracy. If a correction is necessary, the reviewing supervisor should discuss with the deputy probation officer the reasons for correction.

The original report should be returned to the reporting member for correction as soon as practicable. It shall be the responsibility of the originating member to ensure that any report returned for correction is processed in a timely manner.

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312.8.1 CHANGES AND ALTERATIONS

Reports that have been approved by a supervisor and submitted to the Administrative Services Specialist for filing and distribution shall not be modified or altered except by way of a supplemental report.

Reviewed reports not yet submitted to the Administrative Services Specialist may be corrected or modified by the authoring member only with the knowledge and authorization of the reviewing supervisor.

Media Relations

313.1 PURPOSE AND SCOPE

This policy provides guidelines for the release of official department information to the media.

313.2 POLICY

It is the policy of the San Benito County Probation Department to protect the privacy rights of individuals, while releasing non-confidential information to the media regarding topics of public concern. Information that has the potential to negatively affect inter- or intra-agency investigations will not be released.

313.3 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief Probation Officer. In situations not warranting immediate notice to the Chief Probation Officer and in situations where the Chief Probation Officer has given prior approval, Supervisors and designated Public Information Officers may prepare and release information to the media in accordance with this policy and applicable laws regarding confidentiality.

313.4 PROVIDING ADVANCE INFORMATION

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

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

313.5 MEDIA REQUESTS

Any media request for information or access to department members shall be referred to the Public Information Officer, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, members shall consider the following:

- (a) At no time shall any member of this department make any comment or release any official information to the media without prior approval from a supervisor or the Public Information Officer.
- (b) In situations involving multiple agencies or government departments, every reasonable effort should be made to coordinate media releases with the authorized representative of each involved agency prior to the release of any information by this department.
- (c) Under no circumstance should any member of this department make any comment to the media regarding any probation incident not involving this department without

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prior approval of the Chief Probation Officer. Under these circumstances the member should direct the media to the agency handling the incident.

313.6 CONFIDENTIAL OR RESTRICTED INFORMATION

It shall be the responsibility of the Public Information Officer to ensure that confidential or restricted information is not inappropriately released to the media. When in doubt, authorized and available legal counsel should be consulted prior to releasing any information.

313.6.1 EMPLOYEE INFORMATION

The identities of officers involved in shootings or other critical incidents may only be released to the media upon the consent of the involved officer or upon a formal request filed.

Any requests for copies of related reports or additional information not contained in the information log (see the Information Log section in this policy), including the identity of officers involved in shootings or other critical incidents, shall be referred to the Public Information Officer.

Requests should be reviewed and fulfilled by the Chief Probation Officer or the authorized designee. Such requests will be processed in accordance with the provisions of the Records Maintenance and Release Policy and public records laws (e.g., California Public Records Act).

313.7 RELEASE OF INFORMATION

The Department may routinely release information to the media without receiving a specific request. This may include media releases regarding critical incidents, information of public concern, updates regarding significant incidents, or requests for public assistance in solving crimes or identifying suspects or clients with warrants. This information may also be released through the department website or other electronic data sources.

Part-Time Officers

314.1 PURPOSE AND SCOPE

This policy establishes the guidelines for San Benito County Probation Department part-time officers to supplement and assist regular full-time probation officers in their duties. These officers provide professional and special functions and part-time services that can augment regular staffing levels.

314.1.1 DEFINITIONS

Definitions related to this policy include:

Part-time officer - An officer who is engaged in probation duties for less time than full-time officers (Government Code § 20065).

314.2 POLICY

The San Benito County Probation Department shall ensure that part-time officers are properly appointed, trained, and supervised and that they maintain the appropriate certifications and readiness to carry out their assigned duties.

314.3 RECRUITMENT AND SELECTION

The San Benito County Probation Department shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral, and professional standards set forth by this department.

All applicants shall be required to meet and pass the same pre-employment procedures as regular full-time officers before appointment.

314.3.1 APPOINTMENT

Applicants who are selected for appointment as part-time officers shall, on the recommendation of the Chief Probation Officer, be sworn in and take the Oath of Office in accordance with the Oath of Office Policy and as required for the position.

314.4 IDENTIFICATION AND UNIFORMS

Part-time officers may be issued San Benito County Probation Department uniforms, badges, and identification cards. The uniforms and badges shall be the same as those worn by regular full-time officers. The identification cards will be the standard San Benito County Probation Department identification cards, with the exception that "Part-time" will be indicated on the cards.

314.5 AUTHORITY

Part-time officers shall perform probation officer duties within the scope of their approved training. Part-time officers:

- (a) Perform probation functions and have the authority to officially act on behalf of this department.
- (b) Shall not exercise probation officer duties when off-duty.

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314.6 COMPENSATION

Compensation for part-time officers is provided as follows:

- (a) Part-time officers shall work the schedule assigned by the Chief Probation Officer or the authorized designee.
- (b) Part-time officers may be issued a uniform and all designated attire and safety equipment, as applicable to their positions. All property issued to part-time officers shall be returned to this department upon termination or resignation.

314.7 PERSONNEL WORKING PART TIME

Qualified regular department personnel, when authorized, may also serve as part-time officers. However, this department shall not utilize the services of part-time officers in such a way that it would violate employment laws or labor agreements (e.g., a detention officer working as a part-time officer for reduced pay or no pay). Therefore, the part-time officer coordinator should consult with the Human Resources Department prior to allowing regular department personnel to serve in a part-time officer capacity (29 CFR 553.30).

314.8 COMPLIANCE

Part-time officers shall be required to adhere to all department policies and procedures. A copy of the policies and procedures will be made available to each part-time officer upon appointment. The officers shall become thoroughly familiar with these policies.

Whenever a rule, regulation, or guideline in this Policy Manual refers to a regular full-time officer, it shall also apply to a part-time officer, unless by its nature it is inapplicable.

Part-time officers are required by this department to meet department-approved training requirements.

All part-time officers are required to attend scheduled meetings. Any absences must be satisfactorily explained to the part-time officer's supervisor.

314.9 FIREARMS

Part-time officers shall successfully complete department-authorized training in the use of firearms. Their appointments must be approved by the County prior to being issued firearms by this department or otherwise acting as part-time officers on behalf of the San Benito County Probation Department.

Part-time officers will be issued duty firearms as specified in the Firearms Policy. Any part-time officer who is permitted to carry a firearm other than the assigned duty weapon or any optional firearm may do so only in compliance with the Firearms Policy.

Part-time officers are required to maintain proficiency with firearms used in the course of their assignments. Part-time officers shall comply with all training and qualification requirements set forth in the Firearms Policy.

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314.9.1 CONCEALED FIREARMS

A sworn part-time officer who is also a peace officer shall retain the same authority to carry a concealed weapon off-duty as that of a full-time officer upon successful completion of department firearms training (see the Firearms Policy) (Penal Code § 25400; Penal Code § 25450).

An instance may arise where a part-time officer is assigned to a plainclothes detail for an assigned tour of duty. Under these circumstances, the part-time officer may be permitted to carry a weapon more suited to the assignment, but only with the knowledge and approval of the supervisor in charge of the detail.

Any part-time officer who is permitted to carry a firearm other than the assigned duty weapon may do so only after verifying that the weapon conforms to department standards. The weapon must be registered by the part-time officer and be inspected and certified as fit for service by the department Firearms Instructor or Armorer. The weapon shall comply with all the requirements set forth in the Firearms Policy.

Before being allowed to carry any optional firearm during an assigned tour of duty, the part-time officer shall demonstrate proficiency with the weapon.

314.10 PART-TIME OFFICER COORDINATOR

The Chief Probation Officer should delegate certain responsibilities to a Supervisor. The Supervisor shall be appointed by and directly responsible to the Chief Probation Officer or the authorized designee.

The Supervisor may appoint a senior part-time member or other designee to assist in the coordination of part-time officers and their activities.

The responsibilities of the Supervisor or the authorized designee include but are not limited to:

- (a) Assigning part-time officers
- (b) Conducting part-time officer meetings.
- (c) Establishing and maintaining a part-time officer callout roster.
- (d) Maintaining performance evaluations and ensuring they are completed.
- (e) Monitoring the field training progress of part-time officers.
- (f) Monitoring individual part-time officer performance.
- (g) Monitoring overall part-time officer activities.
- (h) Maintaining a liaison with other agency part-time officer coordinators.

314.11 FIELD TRAINING

All part-time officers shall complete the same department-specified field training as regular full-time officers, as described in the Field Training Policy.

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314.12 SUPERVISION

Part-time officers may perform the same duties as regular full-time officers of this department provided they are under the direct or indirect supervision of a supervisor or officer-in-charge. Part-time officers should not supervise a regular full-time officer.

314.12.1 INVESTIGATIONS AND COMPLAINTS

If a part-time officer is the subject of a personnel complaint or becomes involved in an internal investigation, the matter shall be investigated in compliance with the Personnel Complaints Policy.

Outside Agency Assistance

315.1 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 assistance from a law enforcement agency.

315.2 POLICY

It is the policy of the San Benito County Probation Department to respond to requests for mutual aid or assistance by law enforcement agencies, subject to available resources and consistent with the applicable laws and policies of this department.

315.3 ASSISTING OUTSIDE AGENCIES

Generally, requests for any type of assistance from a law enforcement agency should be routed to the Assistant Chief Probation Officer's office for approval. In some instances, a memorandum of understanding or other established protocol may exist that eliminates the need for approval of individual requests.

Mutual aid or assistance may be provided by this department when a law enforcement agency requests assistance. The Assistant Chief Probation Officer may authorize an appropriate number of available officers to assist. Officers rendering assistance shall comply with applicable laws and the policies of this department.

When members provide mutual aid or outside assistance and take action that requires an incident report as required by departmental policy, a copy of this report will be provided to the primary agency.

Only officers who have been approved by the Chief Probation Officer to respond to requests for mutual aid or assistance are authorized to participate in any response. Officers who respond to a request for assistance shall notify a supervisor of their activity as soon as practicable.

315.3.1 EMERGENCY ASSISTANCE

Officers should not respond to any emergency calls except as authorized in this policy. If an officer believes that an emergency response is required in any other situation, the officer should immediately request a response by local law enforcement.

Officers should only respond to a request for assistance as an emergency response when dispatched and when authorized by this agency to operate an emergency vehicle under emergency circumstances. Officers responding should notify a supervisor as soon as reasonably practicable. Officers responding to an emergency request for assistance from a law enforcement agency shall proceed immediately as appropriate and shall operate the emergency vehicle lighting and siren as required by law (Vehicle Code § 21055; Vehicle Code § 21056).

Officers not responding to a request for assistance as an emergency response shall observe all traffic laws and proceed without the use of emergency lights and siren. Officers responding to a

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request for assistance as an emergency response in a vehicle that is not equipped with lights and siren should observe all traffic laws.

315.4 REQUESTING OUTSIDE ASSISTANCE

If assistance is needed from an outside 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. If a member requests urgent assistance from an outside agency, deputies shall notify their supervisor if action is taken requiring an incident report by departmental policy.

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

315.5 REPORTING REQUIREMENTS

Incidents of outside assistance shall be documented in a general case report or as directed by the Assistant Chief Probation Officer.

315.6 SHARED EQUIPMENT AND SUPPLIES

A plan should be prepared by the Assistant Chief Probation Officer or the authorized designee regarding equipment and supplies purchased with federal funds or grants that require such equipment and supplies be shared with other agencies.

The plan should include:

- (a) An itemization of the equipment.
- (b) The conditions relative to sharing.
- (c) The training requirements for:
 - 1. The use of the equipment and supplies.
 - 2. The members trained in the use of the equipment and supplies.
- (d) Any other requirements for use of the equipment and supplies.

Copies of the plan should be provided to the Assistant Chief Probation Officer to ensure use of the equipment and supplies complies with the sharing agreements.

The Training Manager should see that appropriate members have received the required training on the plan.

Major Incident Notification

316.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the San Benito County Probation Department in determining when, how, and to whom notification of major incidents should be made.

316.2 POLICY

The San Benito County Probation Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed. Additional information regarding media inquiries is addressed in the Media Relations policy.

316.3 CRITERIA FOR NOTIFICATION

Most situations where the media show a strong interest are also of interest to the Chief Probation Officer, the affected Supervisor, and the appropriate County administrators. The following list of incident types is provided as a guide for notification and is not intended to be all-inclusive:

- Officer-involved shooting, whether on- or off-duty (see the Officer-Involved Shootings and Deaths Policy for special notification)
- Homicides, suspicious deaths, or other deaths related to probation activity
- Crimes or other behavior by clients of unusual violence, or circumstances that may include hostages, barricaded persons, home invasions, armed robbery, or sexual assaults involving clients
- In-custody deaths or in-custody serious injuries related to clients
- Traffic accidents with fatalities or severe injuries involving department members or clients
- Significant injury to or death of a member of the Department, whether on- or off-duty
- Arrest of a member of the Department
- Equipment failures, utility failures, and incidents that may affect staffing or pose a threat to basic probation services
- Any other incident that has attracted or is likely to attract significant media attention

316.4 DIVISION COMMANDER RESPONSIBILITIES

The Supervisor is responsible for making the appropriate notifications. The Supervisor shall make reasonable attempts to obtain as much information on the incident as possible before notification and shall attempt to make the notifications as soon as practicable. Notification should be made by using the call notification protocol that should be posted in a readily available location.

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Major Incident Notification

316.4.1 AGENCYHEAD NOTIFICATION

In the event an incident occurs as identified in the Criteria for Notification section above, the Chief Probation Officer shall be notified along with the affected Supervisor and the supervisor of the affected division.

316.4.2 INVESTIGATOR NOTIFICATION

If the incident requires that an investigator respond from home, the Chief Probation Officer or the authorized designee shall be notified and will then assign the appropriate investigator (e.g., internal affairs investigations).

316.4.3 MEDIA RELATIONS

The Chief Probation Officer or the authorized designee should assign the Public Information Officer or an officer to respond to requests for information if it appears the media may have a significant interest in the incident.

Limited English Proficiency Services

317.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with limited English proficiency (LEP) (42 USC § 2000d).

317.1.1 DEFINITIONS

Definitions related to this policy include:

Authorized interpreter - A person who has been screened and authorized by the Department 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 proficiency (LEP) individual - 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, understanding) but still exhibit LEP for other purposes (e.g., reading, writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting, but these skills may be insufficient in other situations.

Qualified bilingual member - A member of the San Benito County Probation Department, designated by the Department, 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).

317.2 POLICY

It is the policy of the San Benito County Probation Department to reasonably ensure that LEP individuals have meaningful access to probation services, programs, and activities while not imposing undue burdens on its members.

The Department will not discriminate against or deny any individual access to services, rights, or programs based on national origin or any other protected interest or right.

317.3 LEP COORDINATOR

The Chief Probation Officer shall delegate certain responsibilities to an LEP coordinator. The coordinator shall be appointed by, and directly responsible to, the Chief Probation Officer or the authorized designee.

The responsibilities of the coordinator include but are not limited to:

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- (a) Coordinating and implementing all aspects of the San Benito County Probation Department's LEP services to LEP individuals.
- (b) Developing procedures that will enable members to access LEP services, including telephonic interpreters, and ensuring the procedures are available to all members.
- (c) Ensuring that a list of all qualified bilingual members and authorized interpreters is maintained and available to each Supervisor. The list should include information regarding:
 - 1. Languages spoken.
 - 2. Contact information.
 - 3. Availability.
- (d) Ensuring signage stating that interpreters are available free of charge to LEP individuals is posted in appropriate areas and in the most commonly spoken languages.
- (e) Reviewing existing and newly developed documents to determine which are vital documents and should be translated, and into which languages the documents should be translated.
- (f) Annually assessing demographic data and other resources, including contracted language services utilization data and data from community-based organizations, to determine if there are additional documents or languages that are appropriate for translation.
- (g) Identifying standards and assessments to be used by this department to qualify individuals as qualified bilingual members or authorized interpreters.
- (h) Periodically reviewing the department's efforts in providing meaningful access to LEP individuals, and, as appropriate, developing reports, developing new procedures, or recommending modifications to this policy.
- (i) Receiving and responding to complaints regarding department LEP services.
- (j) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs, and activities.

317.4 FOUR-FACTOR ANALYSIS

Because there are many different languages that members could encounter, the Department will utilize the four-factor analysis outlined in the U.S. Department of Justice (DOJ) Guidance to Federal Financial Assistance Recipients, available at the DOJ website, to determine which measures will provide meaningful access to its services and programs. It is recognized that law enforcement contacts and circumstances will vary considerably. This analysis, therefore, must remain flexible and will require an ongoing balance of the following four factors, which are:

- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of this department or a particular geographic area.

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- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs, or services.
- (c) The nature and importance of the contact, program, information, or service provided.
- (d) The cost of providing LEP assistance and the resources available.

317.5 TYPES OF LEP ASSISTANCE AVAILABLE

San Benito County Probation Department members should never refuse service to an LEP individual requesting assistance, nor should they require an LEP individual to furnish an interpreter as a condition for receiving assistance. The Department will make every reasonable effort to provide meaningful and timely assistance to LEP individuals through a variety of services.

The Department may use 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 department-provided LEP services at no cost or they may choose to provide their own.

Department-provided LEP services may include but are not limited to the assistance methods described in this policy.

317.6 WRITTEN FORMS AND GUIDELINES

Vital documents or those that are frequently used should be translated into languages most likely to be encountered. The LEP coordinator will arrange to make these translated documents available to members and other appropriate individuals, as necessary.

317.7 AUDIO RECORDINGS

The Department may develop audio recordings of important or frequently requested information in a language most likely to be understood by those LEP individuals representative of the community being served.

317.8 QUALIFIED BILINGUAL MEMBERS

Bilingual members may be qualified to provide LEP services when they have demonstrated through established department procedures a sufficient level of skill and competence to fluently communicate in both English and a non-English language. Members who provide LEP services must demonstrate knowledge of the functions of an interpreter/translator and the ethical issues involved when acting as a language conduit. Additionally, bilingual members must be able to communicate technical and law enforcement terminology, and be sufficiently proficient in the non-English language to perform complicated tasks, such as conducting interrogations, taking statements, collecting evidence, or conveying rights or responsibilities.

When a qualified bilingual member from this department is not available, personnel from other County departments who have been identified by the Department as having the requisite skills and competence may be requested.

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317.9 AUTHORIZED INTERPRETERS

Any person designated by the Department 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 department case 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 LEP coordinator that demonstrates their skills and abilities in the following areas:

- (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 department 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.

317.9.1 SOURCES OF AUTHORIZED INTERPRETERS

The Department 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 department or personnel from other County departments.
- Individuals employed exclusively to perform interpretation services.
- Contracted in-person interpreters, such as state or federal court interpreters, among others.
- Interpreters from other agencies who have been qualified as interpreters by this department, and with whom the Department has a resource-sharing or other arrangement that they will interpret according to department guidelines.

317.9.2 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 above), and have been approved by the Department to communicate with LEP individuals.

When qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called on when appropriate. However, department members must carefully consider the nature of the contact and

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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.

317.10 CONTACT AND REPORTING

Although all probation contacts, services, and individual rights are important, this department will use the four-factor analysis to prioritize service to LEP individuals so that such services may be targeted where they are most needed, according to the nature and importance of the particular law enforcement activity involved.

Whenever any member of this department is required to complete a report or other documentation that involves a situation in which interpretation services were provided to any involved LEP individual, such services should be noted in the related report. Members should document the type of interpretation services used and whether the individual elected to use services provided by the Department or some other identified source.

317.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE

The San Benito County Probation Department will take reasonable steps and will work with the Human Resources Department to develop in-house language capacity by hiring or appointing qualified members proficient in languages representative of the community being served.

317.12 FIELD SUPERVISION

Field supervision will generally include such contacts as home, school, or work visits and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and use 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 officer is unable to effectively communicate with an LEP individual.

If available, officers should obtain the assistance of a qualified bilingual member or an authorized interpreter before placing an LEP individual under arrest.

317.13 INVESTIGATIVE FIELD INTERVIEWS

In any situation where an interview may reveal information that could be used as the basis for revocation of probation or supervised release, or 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

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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, officers should consider calling for an authorized interpreter in the following order:

- An authorized department 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.

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.

317.14 CUSTODIAL INTERROGATIONS

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal case. 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. To ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible.

317.15 COMPLAINTS

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department 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 a complaint investigation should not be members of this department.

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.

317.16 COMMUNITY OUTREACH

Community outreach programs and other such services offered by this department are important to the ultimate success of more traditional probation duties. This department will continue to work

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with community groups, local businesses, and neighborhoods to provide equal access to such programs and services.

317.17 TRAINING

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including how to access department-authorized telephonic and in-person interpreters and other available resources.

The Training Manager shall be responsible for ensuring new members receive LEP training. Those who may have contact with LEP individuals should receive refresher training at least once every two years thereafter. The Training Manager shall maintain records of all LEP training provided and will retain a copy in each member's training file in accordance with the established records retention schedule.

317.17.1 TRAINING FOR AUTHORIZED INTERPRETERS

All members on the authorized interpreter list must successfully complete prescribed interpreter training. To complete interpreter training successfully, an interpreter must demonstrate proficiency in and ability to communicate information accurately in both English and in the target language, demonstrate knowledge in both languages of any specialized terms or phraseology, and understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.

Members on the authorized interpreter list must receive refresher training annually or they will be removed from the authorized interpreter list. This annual training should include language skills competency (including specialized terminology) and ethical considerations.

The Training Manager shall be responsible for coordinating the annual refresher training and will maintain a record of all training the interpreters have received.

Communications with Persons with Disabilities

318.1 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.

318.1.1 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 using 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, transliterators, sign language interpreters, and intermediary interpreters.

318.2 POLICY

It is the policy of the San Benito County Probation Department to reasonably ensure that people with disabilities, including people subject to supervision, victims, witnesses, suspects, and arrestees, have equal access to probation services, programs, and activities. Members must make efforts to communicate effectively with individuals with disabilities.

The Department will not discriminate against or deny any individual access to services, rights, or programs based upon disabilities.

318.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

The Chief Probation Officer shall delegate certain responsibilities to an ADA coordinator (28 CFR 35.107). The coordinator shall be appointed by and directly responsible to the Chief Probation Officer or the authorized designee.

The responsibilities of the coordinator include but are not limited to:

- (a) Working with the County ADA coordinator regarding the San Benito County Probation Department's efforts to ensure equal access to services, programs, and activities.
- (b) Developing reports or new procedures or recommending modifications to this policy.
- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs, and activities.

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- (d) Ensuring that a list of qualified interpreter services is maintained and available to each member of the department. The list should include information regarding:
 - 1. Contact information.
 - 2. Availability.
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas indicating that auxiliary aids are available free of charge to individuals with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs, and activities.

318.4 FACTORS TO CONSIDER

Because the nature of any probation contact may vary substantially from one situation to the next, members of this department 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. That an individual appears to be nodding in agreement does not always mean the individual completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the probation 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.

318.5 INITIAL AND IMMEDIATE CONSIDERATIONS

Recognizing that various probation 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.

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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 involved communication.
- (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 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, is hard of hearing, or has impaired speech must be handcuffed while in the custody of the San Benito County Probation Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

318.6 TYPES OF ASSISTANCE AVAILABLE

San Benito County Probation Department members shall never refuse an available service to an individual with disabilities who is requesting assistance. The Department will not charge anyone to receive auxiliary aids, nor shall it require anyone to furnish their own auxiliary aid or service as a condition for receiving assistance. The Department will make every reasonable effort to provide equal access and timely assistance to disabled individuals through a variety of services.

Disabled individuals may choose to accept department-provided auxiliary aids or services, or they may choose to provide their own.

Department-provided auxiliary aids or services may include but are not limited to the assistance methods described in this policy.

318.7 AUDIO RECORDINGS AND ENLARGED PRINT

The Department 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 (e.g., a personnel complaint form) or provide forms with enlarged print.

318.8 QUALIFIED INTERPRETERS

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing an individual under supervision, a victim, witness, suspect, or arrestee) if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what

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others are saying. The qualified interpreter should not be a person with an interest in the case or the investigation. 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 probation 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 department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide an interpreter (28 CFR 35.160).

318.9 TTY AND RELAY SERVICES

In situations where an individual without a disability would have access to a telephone (e.g., booking, attorney contacts), members must also provide those who are deaf, are 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.

Note that relay services translate verbatim, so the conversation must be conducted as if speaking directly to the caller.

318.10 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 Department 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, department 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.

318.11 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

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between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect/client/person on supervised release).

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.

318.12 REPORTING

Whenever any member of this department 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 Department 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.

All written communications exchanged in a criminal case shall be attached to the report or placed into evidence.

318.13 FIELD SUPERVISION

Field supervision will generally include such contacts as home, work, or school visits, street contacts, community encounters, and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. 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 officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, officers 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.

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318.13.1 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, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, is hard of hearing, or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speech read 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.

318.14 CUSTODIAL INTERROGATIONS

In an effort to ensure that the rights of individuals who are deaf, are hard of hearing, or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that the individual 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 by a qualified interpreter or by providing a written *Miranda* warning card to suspects who are deaf or hard of hearing.

To ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible.

318.15 ARRESTS AND BOOKINGS

If an individual with speech or hearing disabilities is arrested, the arresting officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual prefers a different auxiliary aid or service or the officer 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, are hard of hearing, have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, to protect the safety and security of the facility, and to protect individual rights, it is important that accurate medical screening and booking information should be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is

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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.

318.16 COMPLAINTS

The Department shall ensure that individuals with disabilities who wish to file a complaint regarding members of this department are able to do so. The Department may provide a qualified interpreter or forms in enlarged print, as appropriate. Complaints will be referred to the ADA coordinator.

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 department.

318.17 TRAINING

To ensure that all members who may have contact with disabled individuals are properly trained, the Department 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 Training Manager shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including those who are deaf, are hard of hearing, 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 Training Manager shall maintain records of all training provided and will retain a copy in each member's training file in accordance with the established records retention schedule.

318.17.1 TTY OR TDD TRAINING

Training should be mandatory for all members who have contact with probationers who are deaf, are hard of hearing, or have impaired speech. Refresher training should occur every six months. Such training and information should include:

- (a) ASL syntax and accepted abbreviations.
- (b) Practical instruction on identifying and processing TTY or TDD calls, including the importance of recognizing silent TTY or TDD calls and using proper syntax, abbreviations, and protocol when responding to TTY or TDD calls.
- (c) Hands-on experience in TTY and TDD communications, including identification of TTY or TDD tones.

Biological Samples

319.1 PURPOSE AND SCOPE

This policy provides guidelines for the collection of biological samples from those individuals required by California law to provide a biological sample to the San Benito County Probation Department as a result of a qualifying conviction or adjudication.

This policy does not apply to biological samples in conjunction with a criminal investigation, nor does it apply to biological samples collected from those required to register, for example, as sex offenders or arson offenders. Biological samples collected for purposes of drug and/or alcohol testing (e.g., urine, blood) are addressed in the Drug and Alcohol Testing Policy.

319.2 POLICY

The San Benito County Probation Department will assist in the collection of required biological samples from clients and individuals subject to probation, post-release community supervision or mandatory supervision in accordance with the laws of this state, including out-of-state transfer cases.

319.3 INDIVIDUALS SUBJECT TO BIOLOGICAL SAMPLE COLLECTION

The following individuals who are on probation or under supervision for any felony or misdemeanor offense are required by California law to submit a biological sample to an officer of the San Benito County Probation Department if the individual has a prior felony conviction or adjudication, including a conviction or adjudication for an equivalent out-of-state offense (Penal Code § 296.1):

- (a) Adults and juveniles subject to probation/supervised release supervision
- (b) Individuals subject to post-release community supervision
- (c) Individuals subject to mandatory supervision pursuant to Penal Code § 1170(h)(5)

In addition, individuals who are accepted for supervision by this department from another jurisdiction and who are not confined are required to submit a biological sample if the individual has a prior felony conviction or adjudication, including a conviction or adjudication for an equivalent out-of-state offense (Penal Code § 296.1(a)(5)).

319.4 PROCEDURE

When an individual is required to provide a biological sample to a probation officer, subsequent to conviction or adjudication, a probation officer of the San Benito County Probation Department should:

- (a) Verify the individual is required to provide a sample pursuant to California law.
 1. Verification includes querying the individual's criminal history record for a DNA collection flag or, during regular business hours, contacting the California Department of Justice (DOJ) designated laboratory to determine whether a biological sample has previously been collected from the individual. There is no need to obtain a sample if one has been previously obtained.

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- (b) Notify the individual of the time and location to appear to submit a sample.
 - 1. The date to appear shall be, when practicable, within five days of notification to the individual of the requirement to submit a sample (Penal Code § 296.1).
 - 2. Collections from an individual accepted for supervision from another jurisdiction shall occur at a county jail facility located in the county where the person resides (Penal Code § 296.1).
 - 3. All other collections may occur at a county jail facility or at any other city, state, local, or private facility designated by the California DOJ for the collection of a sample (Penal Code § 296.1).
- (c) Provide or use the collection kit designated by the California DOJ for the collection of the sample.
- (d) Provide for a witness to be present at the collection of the sample.
- (e) Document in the individual's file that the sample was taken.
- (f) Forward the sample to the California DOJ as soon as practicable.

319.5 USE OF FORCE TO OBTAIN SAMPLES

If a client refuses to cooperate with the sample collection process, members should attempt to identify the reason for refusal and seek voluntary compliance without resorting to the use of force. Force will not be used in the collection of samples except as authorized by court order.

Methods to consider when seeking voluntary compliance include:

- (a) Communicating the possible consequences of a refusal.
- (b) Contacting the District Attorney to seek additional charges against the individual for failure to comply pursuant to Penal Code § 298.1 or bring the refusal before the appropriate court.
- (c) Notifying the court at the client's next court appearance, if any.
- (d) Contacting the client's attorney, if known.
- (e) Filing a violation report pursuant to the Violations Policy.

The Assistant Chief Probation Officer or authorized designee shall review and approve any plan to use additional actions to compel a sample. Both the supervising officer and the Assistant Chief Probation Officer or authorized designee should document the client's refusal to submit a sample and the steps taken in any attempt to obtain voluntary compliance.

319.5.1 USE OF FORCE DOCUMENTATION

A supervisor shall prepare prior written authorization for the use of any force (Penal Code § 298.1). The written authorization shall include information that the individual was asked to provide the requisite specimen, sample, or impression and refused, as well as the related court order authorizing the force.

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319.5.2 VIDEO RECORDING

A video recording should be made any time force is used to obtain a biological sample. The recording should document all persons participating in the process, in addition to the methods and all force used during the collection. The recording should be part of the client's file or otherwise retained in accordance with the established records retention schedule.

319.6 BLOOD SAMPLES

A blood sample should only be obtained under this policy when (Penal Code § 295; Penal Code § 298):

- (a) The California DOJ requests a blood sample and the subject consents.
- (b) A court orders a blood sample following a refusal.

The withdrawal of blood may only be performed in a medically approved manner by health care providers trained and qualified to draw blood. A California DOJ collection kit shall be used for this purpose (Penal Code § 298).

Child and Dependent Adult Safety

320.1 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 department.

This policy does not address the actions to be taken during the course of a child abuse or dependent adult abuse investigation. These are covered in the Mandatory Reporting Policy.

320.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The San Benito County Probation Department 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.

320.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers 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, officers should inquire if the client has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken:

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers 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 asking witnesses, neighbors, friends, and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should consider reasonable alternatives to arresting a parent, guardian, or caregiver in the presence of a child or dependent adult.

Whenever it is safe to do so, officers 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 nonproductive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that appropriate care will be provided.

320.3.1 AFTER AN ARREST

Whenever an arrest is made, the officer should take all reasonable steps to ensure the safety of the arrestee's disclosed or discovered children or dependent adults.

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Officers 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. Officers should consider allowing the person to use the person's 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 that it would not be in the dependent person's best interest (e.g., signs of abuse, drug use, unsafe environment), officers 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 who the person knows and trusts because familiarity with surroundings and consideration for comfort, emotional state, and safety are important.
 - 1. Except when a court order exists limiting contact, the officer 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 Adult Protective Services, if appropriate.
- (e) Notify the field supervisor or Assistant Chief Probation Officer 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 officer 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.

320.3.2 DURING THE BOOKING PROCESS

During the booking process, the arrestee should be allowed to make telephone calls to arrange for the care of any child or dependent adult.

If an arrestee is unable to arrange for the care of any child or dependent adult through this process, or circumstances prevent them from making such arrangements (e.g., their behavior prevents reasonable accommodations for making necessary calls), 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.

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320.3.3 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 the person reasonably appears able to engage in self-care
 5. Disposition or placement information if the person is unable to engage in self-care

320.3.4 SUPPORT AND COUNSELING REFERRAL

If the handling officers believe the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate, or a crisis response telephone number, they should provide appropriate referral information.

320.3.5 SELF-SURRENDER

If an officer allows a client to self-surrender, the officer should, where practicable, allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate.

320.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service agency to determine whether protective custody is appropriate.

Only when other reasonable options are exhausted should a child or dependent adult be transported to the Probation facility, transported in a marked law enforcement vehicle, or taken into formal protective custody.

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Under no circumstances should a child or dependent adult be left unattended or without appropriate care.

320.5 TRAINING

The Training Manager is responsible for ensuring that all members of this department who may be involved in arrests affecting children or dependent adults receive approved training on effective safety measures when a parent, guardian, or caregiver is arrested.

Service Animals

321.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to ensure that 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 (ADA).

321.1.1 DEFINITIONS

Definitions related to this policy include:

Service animal - A dog that is trained to do work or perform tasks to benefit 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)).

321.2 POLICY

It is the policy of the San Benito County Probation Department to provide services and access to persons with service animals in the same manner as those without service animals. Department members shall protect the rights of persons assisted by service animals in accordance with state and federal law.

321.3 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.

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- 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.

321.4 MEMBER RESPONSIBILITIES

Service animals assisting individuals with disabilities are permitted in all public facilities and areas where the general public is allowed. Department members are expected to treat individuals with service animals with the same courtesy and respect that the San Benito County Probation Department affords to all members of the public (28 CFR 35.136).

321.4.1 INQUIRY

If it is apparent or if a member knows 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 the disability nor should the person be asked to provide any license, certification, or identification card for the service animal.

321.4.2 CONTACT

Service animals are not pets. Department 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.

321.4.3 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 officer 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 department are expected to provide all services that are reasonably available to an individual with a disability, with or without a service animal.

Volunteers, Student Interns and Contract Service Providers

322.1 PURPOSE AND SCOPE

This policy establishes the guidelines for San Benito County Probation Department volunteers, student interns, and contract service providers who will work with youth to supplement and assist department personnel in their duties. Trained volunteers are members who can augment department personnel and help complete various tasks.

322.1.1 DEFINITIONS

Definitions related to this policy include:

Student intern - A college, university, or graduate student gaining practical experience in a chosen field while performing services for the Department under supervision.

Volunteer - An individual who performs a service for the Department without promise, expectation, or receipt of compensation for services rendered. This may include unpaid chaplains, student interns, and persons providing administrative support and services.

Contract Service Provider - An individual who performs a service for the Department through a contract and is compensated for services rendered. This may include case managers, program managers, program facilitators, family advocates, peer mentors, counselors, clinicians, and any other individual that the department deems necessary. All contract service providers will need to be appropriately credentialed and licensed to be in compliance with state regulations.

322.2 POLICY

The San Benito County Probation Department shall ensure that volunteers, student interns and contract service providers are properly appointed, trained, and supervised to carry out specified tasks and duties in order to create an efficient department and improve services to the community.

322.3 ELIGIBILITY

Requirements for participation as a volunteer, student intern or contract service provider for the Department may include but are not limited to.

- (a) Being an enrolled student in a college, university, or other approved educational entity.
- (b) Being at least 18 years of age.
- (c) Possession of a valid driver's license if the position requires vehicle operation.
- (d) Possession of liability insurance for any personally owned equipment, vehicles, or animals utilized during volunteer work.
- (e) No conviction of any crime of a sexual nature, sexual nature against children, any crime related to assault or violence, any crime related to dishonesty, or any crime related to impersonating a law enforcement officer.

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- (f) No conviction of a felony, misdemeanor or gross misdemeanor crime within the past 10 years, excluding petty misdemeanor traffic offenses.
- (g) No mental illness or chemical dependency condition that may adversely affect the person's ability to serve in the position.
- (h) Ability to meet physical requirements reasonably appropriate to the assignment.
- (i) A personal background history and character suitable for a person representing the Department, as validated by a background investigation.

322.4 RECRUITMENT, SELECTION, AND APPOINTMENT

The San Benito County Probation Department shall endeavor to recruit and appoint only those applicants who meet the high ethical, moral, and professional standards set forth by this department.

322.4.1 RECRUITMENT

Volunteers, student interns and contract service providers should be recruited on a continuous and ongoing basis consistent with department policy on equal opportunity, nondiscriminatory employment. A primary qualification for participation in the application process should be an interest in and an ability to assist the Department in serving the public.

Requests for volunteers, student interns and contract service providers should be submitted in writing by interested department members to the Administrative Services Specialist through the requester's immediate supervisor. A complete description of the volunteer's, intern's or contract service provider duties and a requested time frame should be included in the request. All department members should understand that the recruitment of volunteers, student interns and contract service providers is enhanced by creative and interesting assignments. The Administrative Services Specialist may withhold assignment of any volunteer, student intern or contract service provider until such time as the requester is prepared to make effective use of volunteer, student intern and contract service provider resources.

322.4.2 SELECTION

Volunteer, student intern and contract service provider candidates shall successfully complete the following process prior to appointment:

- (a) Submit the appropriate written application.
- (b) Complete an interview in person.
- (c) Successfully complete an appropriate-level background investigation.
- (d) Live scan fingerprinting.

322.4.3 APPOINTMENT

Service as a volunteer, student intern and contract service provider with the Department shall begin with an official notice of acceptance or appointment by the Chief Probation Officer or the authorized designee. Notice may only be given by an authorized representative of the Department, who will normally be the volunteer coordinator. Volunteers, student interns or contract service

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provider will not begin any assignment until they have been officially accepted for that position and have completed all required screening and paperwork. At the time of final acceptance, each volunteer, student intern or contract service provider should complete all required enrollment paperwork and will receive a copy of the position description and agreement of service with the Department.

All volunteers, student interns and contract service providers shall receive a copy of the orientation materials and shall be required to sign a volunteer, student intern or contract agreement. Volunteers, student interns and contract service providers should be placed only in assignments or programs consistent with their knowledge, skills, and abilities and the needs of the Department.

Volunteers, student interns and contract service providers serve at the discretion of the Chief Probation Officer.

322.5 IDENTIFICATION

As representatives of the Department, volunteers, student interns, and contract service providers are responsible for presenting a professional image to the community. Volunteers, student interns and contract service providers shall dress appropriately for the conditions and performance of their duties. Necessary safety equipment will be provided for each volunteer, student intern, and contract service provider. Identification symbols worn by volunteers, student interns and contract service providers shall be different and distinct from those worn by officers or other members of this department.

Volunteers, student interns and contract service providers will be issued San Benito County Probation Department identification cards, which must be carried at all times while on-duty. The identification cards will be the standard San Benito County Probation Department identification cards, except that "Volunteer", "Student Intern" and "Contract Service Provider" will be indicated on the cards.

322.6 PERSONNEL WORKING AS VOLUNTEERS OR STUDENT INTERNS

Qualified regular department personnel, when authorized, may also serve as volunteers or student interns. However, this department shall not utilize the services of volunteers or student interns in such a way that it would violate employment laws or collective bargaining agreements or memorandums of understanding (e.g., a detention officer participating as a volunteer or a student intern for reduced or no pay). Therefore, the Administrative Services Specialist should consult with the Human Resources Department prior to allowing regular department personnel to serve in a volunteer or student intern capacity (29 CFR 553.30).

322.7 ADMINISTRATIVE SERVICES SPECIALIST

The Administrative Services Specialist shall be appointed by and directly responsible to the Administrative Services Supervisor or the authorized designee.

The function of the specialist is to provide a central coordinating point for effective volunteer management within the Department, and to direct and assist efforts to jointly provide more productive volunteer services. Under the general direction of the Chief Probation Officer or the

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authorized designee, volunteers and student interns shall report to the Administrative Services Specialist and/or Assistant Chief Probation Officer.

The Administrative Services Specialist may appoint a senior volunteer or other designee to assist in the coordination of volunteers and student interns and their activities.

The responsibilities of the specialist or the authorized designee may include but are not limited to:

- (a) Recruiting, selecting, and training qualified volunteers, student interns, and contract service providers.
- (b) Conducting volunteer meetings.
- (c) Establishing and maintaining a volunteer callout roster.
- (d) Maintaining records for each volunteer, student intern and contract service provider.
- (e) Tracking and evaluating the contribution of volunteers, student interns and contract service providers.
- (f) Maintaining a record of volunteer and student intern schedules and work hours.
- (g) Completing and disseminating, as appropriate, all necessary paperwork and information.
- (h) Planning periodic recognition events.
- (i) Maintaining a liaison with other community programs that use volunteers and assisting in community-wide efforts to recognize and promote volunteering.
- (j) Maintaining a liaison with colleges and universities that provide student interns to promote the intern program with both students and the educational institution.
- (k) Maintaining volunteer and student intern orientation and training materials and outlining expectations, policies, and responsibilities for all volunteers and student interns.

An evaluation of the overall use of volunteers, student interns and contract service providers, may be conducted on an annual basis by the specialist.

322.8 DUTIES AND RESPONSIBILITIES

Volunteers assist department personnel as needed. Assignments of volunteers will usually be to augment the Administrative Services Division, but volunteers may be assigned to other areas within the Department as needed.

Volunteers should be placed only in assignments or programs consistent with their knowledge, skills, and abilities and the needs of the Department.

Student interns should be assigned to areas that meet the needs of both their educational program and the Department.

The scope of services rendered by contract service providers shall be delineated in the contract.

All volunteers will be assigned to duties by the Administrative Services Specialist or the authorized designee.

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322.8.1 COMPLIANCE

Volunteers, student interns and contract service providers shall be required to adhere to all department policies and procedures. A copy of the policies and procedures will be made available to each volunteer, student intern and contract service provider upon appointment. The volunteer, student intern and contract service provider shall become thoroughly familiar with these policies.

Whenever a rule, regulation, or guideline in this Policy Manual refers to regular department personnel, it shall also apply to a volunteer, student intern, and contract service provider unless by its nature it is inapplicable.

Volunteers, student interns and contract service providers are required by this department to meet department-approved training requirements as applicable to their assignments.

322.9 TASK-SPECIFIC TRAINING

Task-specific training is intended to provide the required instruction and practice for volunteers, student interns and contract service providers to properly and safely perform their assigned duties. The training should correspond to the assignment as determined by the assigned supervisor.

Volunteers, student interns and contract service providers will be provided with an orientation program to acquaint them with the policies of the Department and probation procedures applicable to their assignments.

Volunteers, student interns and contract service providers should receive position-specific training to ensure they have adequate knowledge and skills to complete the required tasks and should receive ongoing training as deemed appropriate by their supervisors.

Training should reinforce to volunteers, student interns and contract service providers that they shall not intentionally represent themselves as, or by omission infer that they are, officers or other full-time members of the Department. They shall always represent themselves as volunteers, student interns and contract service providers.

All volunteers, student interns and contract service providers shall comply with the rules of conduct and with all applicable orders and directives, either oral or written, issued by the Department.

322.9.1 VOLUNTEER, STUDENT INTERN AND CONTRACT SERVICE PROVIDER TRAINING MATERIALS

Each new volunteer, student intern and contract service provider will be issued training materials, as needed. The materials outline the subject matter and skills necessary to properly function as a volunteer, student intern and contract service provider with the San Benito County Probation Department. The volunteer, student intern and contract service provider shall become knowledgeable of the subject matter and proficient with the skills as set forth in the training materials.

322.10 SUPERVISION

Each volunteer, student intern and contract service provider must have a clearly identified supervisor who is responsible for direct management of that individual. This supervisor will be

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responsible for day-to-day management and guidance of the work of the volunteer, student intern and contract service provider and should be available for consultation and assistance.

Functional supervision of volunteers, student interns and contract service providers is the responsibility of the supervisor in charge of their assigned duties. The following are some considerations that supervisors should keep in mind while supervising volunteers, student interns and contract service providers:

- (a) Take the time to introduce volunteers, student interns and contract service providers to members on all levels.
- (b) Ensure volunteers and student interns have work space and necessary office supplies.
- (c) Make sure the work is challenging. Do not hesitate to give volunteers and student interns an assignment or task that will utilize these valuable resources.
- (d) Ensure the work for student interns meets the needs of their educational program, while also meeting the needs of the Department.

322.10.1 FITNESS FOR DUTY

No volunteer, student intern or contract service provider shall report for work or be at work when the individual's judgment or physical condition has been impaired due to illness or injury, or by the use of alcohol or drugs, whether legal or illegal.

Volunteers, student interns or contract service providers shall report to their supervisors any change in status that may affect their ability to fulfill their duties. This includes but is not limited to:

- (a) Driver's license.
- (b) Medical condition.
- (c) Arrests.
- (d) Criminal investigations.
- (e) All law enforcement contacts.

322.11 INFORMATION ACCESS

With appropriate security clearance, a volunteer, student intern or contract service provider may have access to or be in the vicinity of criminal histories, investigative files, or information portals. Unless otherwise directed by a supervisor, the duties of the position, or department policy, all such information shall be considered confidential. Only that information specifically identified and approved by authorized members shall be released. Confidential information shall be given only to persons who have a need and a right to know as determined by department policy and supervisory personnel.

A volunteer, student intern or contract service provider whose assignment requires the use of, or access to, confidential information will be required to be fingerprinted and have the fingerprints submitted to the California Department of Justice to obtain clearance. Volunteers, student interns and contract service providers working this type of assignment will receive training in data practices and be required to sign a nondisclosure agreement before being given an assignment

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with the Department. Subsequent unauthorized disclosure of any confidential information verbally, in writing, or by any other means by the volunteer, student intern or contract service provider is grounds for immediate dismissal and possible criminal prosecution.

Volunteers, student interns and contract service providers shall not address public gatherings, appear on radio or television, prepare any article for publication, act as correspondents to newspapers or other periodicals, release or divulge any information concerning the activities of the Department, or maintain that they represent the Department in such matters without permission from the proper department personnel. Student interns should receive training on the type of information or material allowed in reports or articles prepared for their educational program.

322.12 EQUIPMENT

Any property or equipment issued by the Department shall be for official and authorized use only. Any property or equipment issued to a volunteer, student intern or contract service provider shall remain the property of the Department and shall be returned at the termination of service.

322.12.1 VEHICLE USE

Volunteers, student interns or contract service providers assigned to duties that require the use of a vehicle must first complete:

- (a) Verification that the volunteer, student intern or contract service provider possesses a valid driver's license.
- (b) Verification that the volunteer, student intern or contract service provider carries current vehicle insurance.

The Administrative Services Specialist should ensure that all volunteers, student interns and contract service providers receive safety briefing updates and license and insurance verification at least once a year.

When operating department vehicles, volunteers, student interns or contract service providers shall obey all rules of the road, including seat belt requirements.

Volunteers, student interns or contract service providers should not operate a marked probation vehicle unless there is a prominently placed sign indicating that the vehicle is out of service.

Volunteers, student interns and contract service providers are not authorized to operate department vehicles while using the vehicle's emergency equipment (e.g., emergency lights, siren).

322.13 DISCIPLINARY PROCEDURES/TERMINATION

If a volunteer is the subject of a personnel complaint or becomes involved in an internal investigation, the matter shall be investigated in compliance with the Personnel Complaints Policy. If a student intern is the subject of or is involved in an internal investigation, the coordinator of the educational program that sponsors the intern should be notified

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Volunteers are considered at-will and may be removed from service at the discretion of the Chief Probation Officer, with or without cause. Volunteers shall have no property interest in their continued appointments. However, if a volunteer is removed for alleged misconduct, the volunteer will be afforded an opportunity through a liberty interest hearing solely for name-clearing purposes, which shall be limited to a single appearance before the Chief Probation Officer or the authorized designee.

Volunteers may resign from volunteer service with the Department at any time. It is requested that volunteers who intend to resign provide advance notice and a reason for their decision.

322.13.1 EXIT INTERVIEWS

The Chief Probation Officer or authorized designee should conduct exit interviews, where possible. These interviews should ascertain why the volunteer or contract service provider is leaving the position and should solicit suggestions on improvements. When appropriate, an exit interview should also include a discussion on the possibility of involvement in some other capacity with the Department. Student intern exit interviews should solicit the intern's suggestions for improving the internship and learning opportunities with the Department.

Community Relations

323.1 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:

- Limited English Proficiency Services Policy.
- Communications with Persons with Disabilities Policy.
- Suspicious Activity Reporting Policy.

323.2 POLICY

It is the policy of the San Benito County Probation Department to promote positive relationships between department members 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 available relevant policy and operations information to the community in a transparent manner.

323.3 MEMBER RESPONSIBILITIES

Officers should, as time and circumstances reasonably permit:

- (a) Make casual and consensual contacts with community members to promote positive community relationships.
- (b) Become reasonably familiar with the schools, businesses, community treatment programs, service providers, and faith-based organizations in their supervision areas.
- (c) Work with community members and the department community relations coordinator to identify issues and solve problems related to community relations and public safety.
- (d) Conduct periodic field contacts to facilitate interaction with community members. Officers carrying out field contacts should notify an appropriate supervisor or authorized designee of their status (i.e., on field supervision) and location before beginning and upon completion of field supervision.

323.4 SAFETY AND OTHER CONSIDERATIONS

Department members responsible for community relations activities should consider the safety of the community participants and, as much as reasonably practicable, should not allow them to be present in any location or situation that would jeopardize their safety.

Department 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 is younger than 18.

Community members are subject to a criminal history check before approval for participation in certain activities, such as student internships.

Discriminatory Harassment

324.1 PURPOSE AND SCOPE

The purpose of this policy is to prevent department 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 (Government Code § 12940(k); 2 CCR 11023).

324.2 POLICY

The San Benito County Probation Department 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. The Department will not tolerate discrimination against a member in hiring, promotion, discharge, compensation, fringe benefits, and other privileges of employment. The Department will take preventive and corrective action to address any behavior that violates this policy or the rights and privileges it is designed to protect.

The nondiscrimination policies of the Department 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.

324.3 DEFINITIONS

Definitions related to this policy include:

324.3.1 DISCRIMINATION

The Department 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 department equipment and/or systems to transmit or receive offensive material, statements, or pictures. Such conduct is contrary to department policy and to a work environment that is free of discrimination.

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324.3.2 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.

324.3.3 SEXUAL HARASSMENT

The Department 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 as 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.

324.3.4 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 and California Civil Rights Council guidelines.
- (b) Bona fide requests or demands by a supervisor that the member improve the member's work quality or output, that the member report to the job site on time, that the member comply with County or department rules or regulations, or any other appropriate work-related communication between supervisor and member.

324.4 RESPONSIBILITIES

This policy applies to all department members, who shall follow the intent of these guidelines in a manner that reflects department policy, professional standards, and the best interest of the Department 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 Probation Officer, 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 a resolution as stated below.

324.4.1 QUESTIONS OR CLARIFICATION

Members with questions regarding what constitutes discrimination, sexual harassment, or retaliation are encouraged to contact a supervisor, a manager, the Chief Probation Officer, the Director of Human Resources, the County Administrative Officer, or the California Civil Rights Department for further information, direction, or clarification (Government Code § 12950).

324.4.2 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 Probation Officer or the Director of Human Resources in writing of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment, or retaliation no later than the next business day.

324.4.3 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

- (a) Behavior of supervisors and managers should represent the values of the Department 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.

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

324.5.1 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.

324.5.2 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 Probation Officer, the Director of Human Resources, or the County Administrative Officer.

324.5.3 ALTERNATIVE COMPLAINT PROCESS

No provision of this policy shall be construed to prevent any member from seeking legal redress outside the Department. 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.

324.6 DOCUMENTATION OF COMPLAINTS

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

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- (a) Approved by the Chief Probation Officer, the County Administrative Officer, or the Director of Human Resources, depending on the ranks of the involved parties.
- (b) Maintained in accordance with the established records retention schedule.

324.6.1 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.

324.7 WORKING CONDITIONS

The Chief Probation Officer 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).

324.8 TRAINING

All new members shall be provided with a copy of this policy as part of their orientation. The policy shall be reviewed by each new member. The members shall certify by acknowledging 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 Department.

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

324.8.1 STATE-REQUIRED TRAINING

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

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

If the required training is to be provided by the Civil Rights Department online training courses, the Training Manager should ensure that employees are provided the following website address to the training course: <https://calcivilrights.ca.gov/> (Government Code § 12950; 2 CCR 11023).

324.8.2 TRAINING RECORDS

The Training Manager 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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324.8.3 REQUIRED POSTERS

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

Foot Pursuits

325.1 PURPOSE AND SCOPE

This policy provides guidelines to assist officers in making the decision to initiate or continue the pursuit of supervised persons and/or suspects on foot.

325.2 POLICY

It is the policy of this department that officers, when deciding to initiate or continue a foot pursuit, continuously balance the objective of apprehending the supervised person and/or suspect with the risk and potential for injury to department members, the public or the supervised person and/or suspect.

Officers are expected to act reasonably, based on the totality of the circumstances.

325.3 DECISION TO PURSUE

The safety of department members and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Deputies must be mindful that immediate apprehension of a supervised person and/or suspect is rarely more important than the safety of the public and department members.

Officers may be justified in initiating a foot pursuit of any individual the deputy reasonably believes is in violation of their terms of supervision, 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 a deputy must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place department members and the public at significant risk. Therefore, no deputy 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, a deputy 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.

325.4 GENERAL GUIDELINES

When reasonably practicable, officers 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 officer is acting alone.
- (c) Two or more officers 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 deputy keep the suspect in sight from a safe distance and coordinate the containment effort.
- (d) The officer is unsure of their location and direction of travel.
The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspect should a confrontation occur.
- (e) The physical condition of the officer renders them incapable of controlling the suspect if apprehended.
- (f) The officer loses radio contact with the dispatcher or with assisting or backup deputies.
- (g) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient officers to provide backup and containment. The primary deputy should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.
- (h) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to deputies or the public.
- (i) The officer reasonably believes that the danger to the pursuing deputies or public outweighs the objective of immediate apprehension.
- (j) The officer loses possession of his/her firearm or other essential equipment.
- (k) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (l) The suspect's location is no longer definitely known.
- (m) 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 department members or the public if the suspect is not immediately apprehended.

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- (n) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

325.5 RESPONSIBILITIES IN FOOT PURSUITS

325.5.1 INITIATING OFFICER RESPONSIBILITIES

Unless relieved by another officer or a supervisor, the initiating officer shall be responsible for coordinating the progress of the pursuit. When acting alone and when practicable, the initiating officer should not attempt to overtake and confront the suspect but should attempt to keep the suspect in sight until sufficient officers are present to safely apprehend the suspect.

Early communication of available information from the involved officers is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Officers 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

Officers should be mindful that radio transmissions made while running may be difficult to understand and may need to be repeated.

Absent extenuating circumstances, any officer 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 officer 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 officers, suspects or members of the public.

Absent extenuating circumstances, any officer 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 officer 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 officers, suspects or members of the public.

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325.5.2 ASSISTING OFFICER RESPONSIBILITIES

Whenever any officer announces that they are engaged in a foot pursuit, all other officers should minimize non-essential radio traffic to permit the involved officers maximum access to the radio frequency.

325.5.3 SUPERVISOR RESPONSIBILITIES

Upon becoming aware of a foot pursuit, the supervisor shall make every reasonable effort to ascertain sufficient information to direct responding resources and to take command, control and coordination of the foot pursuit. The supervisor should respond to the area whenever possible; the supervisor does not, however, need not be physically present to exercise control over the foot pursuit. The supervisor shall continuously assess the situation in order to ensure the foot pursuit is conducted within established department guidelines.

The supervisor shall terminate the foot pursuit when the danger to pursuing officers 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.

325.6 REPORTING REQUIREMENTS

The initiating officer shall complete appropriate incident 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/violations.
- (e) Involved vehicles and officers.
- (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 officers 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 officer need not complete a formal report.

Vehicle Pursuits

326.1 POLICY

It is the policy of the San Benito County Probation Department that vehicle pursuits shall not be conducted by any member of the department in performance of their duties.

Code - 3 Lights and Sirens and Emergency Response

327.1 PURPOSE

The intent of this policy is to inform Department members of the Emergency (Code-3) lights and sirens equipped in selected department vehicles. Further, it is to provide guidance for the safe and appropriate use of emergency lights and sirens and response to critical emergency situations.

327.2 SCOPE

Only officers who have successfully completed a department approved Emergency Vehicle Operations Course (EVOC), or equivalent, as approved by the Chief Probation Officer, are authorized to activate the emergency lights and siren. Emergency lights and siren are only to be activated and operated by the officer operating the vehicle. Emergency lights and siren (Code-3) are to be activated (Code-3 response) under the following circumstances:

1. When responding to clear, immediate, critical, and life-threatening situation.

Examples of such are as follows:

- (a) Terrorist incident where response would mitigate the immediate threat to life.
- (b) Critical emergency or incident where lifesaving efforts from deputy probation officers are in dire need.
- (c) Active shooter incident when our agency response would assist in nullifying the threat (authorized for armed/field trained staff only).
- (d) Request for Code-3 cover from our deputy probation officer or officers from other agencies (authorized for armed/field trained staff only).

2. Under the lawful direction of the Chief Probation Officer.

327.3 DECISION TO RESPOND

In deciding to respond, each officer must assess the circumstances of each situation, and their personal capacity to act and/or assist given the individual officer's skills, knowledge, training and equipment. Officers should consider not responding Code-3 if it appears that a sufficient number of other units are responding from closer proximity to the incident.

327.4 RESPONSE TO INCIDENTS

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

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Code - 3 Lights and Sirens and Emergency Response

327.5 RESPONSIBILITIES OF RESPONDING PROBATION OFFICERS

Upon receiving authorization or determining that a Code-3 response is appropriate, an officer shall immediately advise county communications (dispatch) and give the location from which he/she is responding. Deputy probation officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency. Officers 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 officer. If, in the officer's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, an officer may elect to respond to the incident without the use of red lights and siren, and respond at the legal posted speed limit. In such an event, the officer should immediately notify county communications (dispatch).

327.6 FAILURE OF EMERGENCY EQUIPMENT

If the emergency equipment on the vehicle should fail to operate, the officer must terminate the Code-3 response and respond accordingly.

Chapter 4 - Intake, Orientation, and Supervision

Initial Intake to Probation Services

400.1 PURPOSE AND SCOPE

This policy establishes guidelines for the San Benito County Probation Department's initial intake.

400.2 POLICY

The San Benito County Probation Department will engage in an initial process in an effort to facilitate fair and appropriate supervision of clients.

400.3 ADULT INTAKE TO SUPERVISION

The Chief Probation Officer or the authorized designee should develop and maintain a standard intake program with appropriate forms and checklists to assist officers in their supervision of assigned clients.

The intake program should include but is not limited to:

- (a) Performing an intake interview or interviews:
 - 1. The intake interview should be completed within 72 hours, or earlier if required by a court order, after the client's release from custody or initial report to the San Benito County Probation Department.
- (b) Documenting relevant information about the client, such as:
 - 1. Personal information including name, address, and contact information
 - 2. Current employment and relevant employment history
 - 3. Family information
 - 4. Criminal history
 - 5. Any substance abuse, mental health, and treatment information
 - 6. Potential safety issues for officers and staff (e.g., weapons, dangerous animals within the home, family members who may present a threat)
- (c) Completing any appropriate and/or mandated risk and needs assessment(s) and scheduling appropriate review with the client as set forth in the Risk and Needs Assessments Policy.
- (d) Providing the client with an overview of what to expect while being supervised and any of the following as applicable:
 - 1. An orientation handbook or other applicable orientation materials
 - 2. A copy of court-ordered conditions of supervision
 - 3. Applicable resources regarding any court-ordered programs, community referrals, or other resources pertaining to the conditions of probation
 - 4. Explanations of any financial obligations (e.g., court-ordered restitution, fines, fees)

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5. Applicable registration requirements (e.g., gang (Penal Code § 186.31), arson (Penal Code § 457.1), sex offenders (Penal Code § 290.017; Penal Code § 290.85))
6. Documenting client receipt of orientation and other materials

400.4 JUVENILE INTAKE TO SERVICES

400.4.1 JUVENILE INTAKE OFFICERS

The Chief Probation Officer should designate officers to act as juvenile intake officers. These officers should be trained in established juvenile intake procedures and should serve as first-line staff for juvenile intake to services.

400.4.2 OUT-OF-CUSTODY JUVENILE INTAKE

The Chief Probation Officer or the authorized designee should develop and maintain a standard intake program with appropriate forms and checklists to assist juvenile intake officers with the intake for services of juveniles who are currently out of custody.

The intake program should include but is not limited to:

- (a) Performing an intake interview, including an interview with the juvenile and parent/s to determine next steps
- (b) Documenting relevant information about the juvenile including but not limited to:
 1. Verifying personal information including name, address, and contact information
 2. Current employment and relevant employment history, if applicable
 3. Family information, including siblings and parental custody situation
 4. Delinquent history information
 5. Child welfare history, including any allegations of abuse or neglect and outcomes of these allegations
 6. School information, including grades and attendance
 7. Any substance abuse, mental health, and treatment information
 8. Potential safety issues for officers and staff (e.g., weapons, dangerous animals within the home, family members who may present a threat)
 9. Completing any appropriate and/or mandated risk and needs assessment(s) as set forth in the Risk and Needs Assessments Policy
 10. Documenting the juvenile's receipt of orientation and other materials
 11. Any other information that is deemed necessary to ensure an understanding of each juvenile's individual needs
- (c) Providing the juvenile with any of the following as applicable:
 1. An orientation handbook or other applicable orientation materials
 2. Applicable resources, including community referrals

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3. Explanations of any financial obligations, such as a victim's request for restitution

400.4.3 IN-CUSTODY JUVENILE INTAKE

The Chief Probation Officer or the authorized designee should develop and maintain a standard intake program with appropriate forms and checklists to assist juvenile intake officers with the intake for services of juveniles who are currently in custody.

This intake program should include intake procedures for juveniles who are out of custody, along with investigation, and release or placement procedures (Welfare and Institutions Code § 628; Welfare and Institutions Code § 727; Welfare and Institutions Code § 727.05).

In addition to considering the intake program as described in Out-of-Custody Juvenile Intake, officers assessing the status of a juvenile who has been booked into custody should:

- (a) Review booking information.
- (b) Review pertinent reports from law enforcement.
- (c) Consider custodial status and whether custody is appropriate, including whether the juvenile is a dependent minor.
- (d) Consider whether filing with the prosecuting attorney is appropriate.
- (e) Inquire as to the status of a minor as an Indian child within the meaning of Welfare and Institutions Code § 224.3 and provide notice as required by Welfare and Institution Code § 224.2.

Risk and Needs Assessments

401.1 PURPOSE AND SCOPE

The purpose of this policy is to provide general guidelines for the selection and administration of risk and needs assessment tools (RNAs) and the use of resulting information.

401.2 POLICY

It is the policy of the Department to use RNAs fairly, properly, and consistently to assist in making informed decisions regarding client levels of risk, intervention strategies, treatment, and supervision.

401.3 AGENCY RNA SELECTION

The Chief Probation Officer or the authorized designee is responsible for:

- (a) Identifying and approving any RNA to be used by officers considering state or other jurisdictional requirements.
 1. Any/All State-Authorized Risk Assessment Tools used for the evaluation of Sex Offenders (SARATSO) (Penal Code § 290.04).
 2. All other RNAs to be used by Department officers.
- (b) Creating and maintaining procedures for the administration of RNAs, including but not limited to:
 1. Procedures to collect initial and updated information.
 2. Reassessments based on client life changes or other dynamic risk factors.
- (c) Periodically reviewing assessments and results to identify any training or RNA adjustments or improvements.
- (d) Working with other agencies and entities, including courts, prosecutors, treatment providers, and other providers, to facilitate coordination and implementation of department-approved RNAs and related procedures.

401.4 OFFICER RESPONSIBILITIES

Officers should not administer or score an RNA before completing department-approved training.

Only department-approved RNAs should be used.

Officers should supplement information collected during the administration of the RNA with information from an official records check, such as a criminal history records check.

Officers who reasonably believe the results of the RNA may be inaccurate or incomplete should consult with a supervisor to determine whether presentation to the court or other resolution is appropriate.

401.4.1 STATE REQUIREMENTS

Officers should submit SARATSO results to the Department of Justice as provided in Penal Code § 290.09.

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Risk and Needs Assessments

401.5 TRAINING

Officers using RNAs should receive periodic training on the use of approved RNAs. The training should include, as applicable and as resources allow:

- (a) The purpose of the RNA, including the types of offenders for which the RNA was developed.
- (b) Information required for administration of the RNA.
- (c) How to administer the RNA.
- (d) Limitations of the RNA.
- (e) Over-ride procedures.
- (f) The types of decisions that may be made based on data produced by the RNA.
- (g) How the RNA calculates risk and needs and what, if any, other assessment information may be provided by the tool (e.g., strengths, responsivity factors).

401.5.1 SEX OFFENDER RISK ASSESSMENT TRAINING REQUIREMENTS

Only officers trained as required by Penal Code § 290.05 may administer a SARATSO.

Supervision of Clients

402.1 PURPOSE AND SCOPE

This policy establishes guidelines for the supervision of clients by assigning clients to an appropriate level of supervision and developing an appropriate case management plan for each client.

This policy does not address compliance monitoring, modifications and violations of release conditions, risk and needs assessments, and intake, which are addressed in other policies.

402.2 POLICY

It is the policy of the San Benito County Probation Department to use case management practices to facilitate effective and safe supervision of clients in accordance with federal and state law and department procedure.

402.3 RESPONSIBILITIES

The Chief Probation Officer or the authorized designee should:

- (a) Establish and maintain procedures to assign clients to approved levels of supervision.
- (b) Establish and maintain procedures for the development and implementation of case management plans.
- (c) Establish and maintain procedures to ensure that clients are provided with guidance identifying appropriate community-based resources required or recommended for the client, and with assistance accessing those resources.
 1. This should include maintaining a list of resources and services available and approval of necessary additions or substitutions.
- (d) Review and approve the level of supervision to which each client is assigned.
 1. This should include the initial assignment and periodic reviews to determine if adjustments in the level of supervision are appropriate.
- (e) Conduct periodic reviews of case management plans to assess the need to adjust a plan for reasons including the client's compliance with conditions of supervision, life changes, or other risk factors.
- (f) Establish a procedure to ensure that every 10 days updates are made to any supervised release file available to this department on the California Law Enforcement Telecommunications System (CLETS) by entering any client placed on post-conviction supervision who is within the jurisdiction and authority of the San Benito County Probation Department. This includes persons on probation, mandatory supervision, and post-release community supervision (Penal Code § 14216).

402.4 LEVELS OF SUPERVISION

Each client should be assigned a level and type of supervision (Penal Code § 1202.8).

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402.4.1 ASSIGNMENT TO A LEVEL OF SUPERVISION

Officers shall follow department procedures when assigning each client to a level of supervision.

The assignment of each client to a level and type of supervision should be based on but not limited to the following:

- (a) Court-ordered directives related to supervision (Penal Code § 1202.8)
- (b) Results and findings of the risk and needs assessment administered pursuant to the Risk and Needs Assessments Policy
- (c) Results and findings of other relevant evaluations, including but not limited to mental and physical health evaluations and substance abuse evaluations
- (d) Information collected at intake pursuant to the Initial Intake to Probation Services Policy
- (e) Nature and severity of the offense requiring supervision
- (f) Past criminal history and past performance on probation/parole supervision
- (g) Other information relevant to a level and type of supervision determination

402.4.2 LEVELS OF SUPERVISION FOR SEX OFFENDERS

Adult sex offenders who are determined by a risk and needs assessment to pose a high risk to the public of committing a sex crime shall be assigned to intensive and specialized supervision as required by Penal Code § 1203f.

Juvenile sex offenders who pose a high risk of committing a sex crime should be considered for assignment to intensive and specialized supervision.

402.5 ESTABLISHMENT OF A CASE MANAGEMENT PLAN

A case management plan should be established for all supervised clients according to department procedures. Prior to developing a case management plan, officers should review with the client the results of any risk and needs assessment, the pre-sentence investigation, if applicable, and the information collected during intake.

Case management plans should outline supervision strategies, including supervision, monitoring, needs screening, and referrals to appropriate programming such as treatment, education, and training programs.

Officers should review the materials used to develop the case management plan with the client, as appropriate.

A case management plan should identify all terms of release. Additions and modifications to court-ordered conditions shall be consistent with the Modification of Conditions of Supervision Policy.

402.5.1 JUVENILE CASE MANAGEMENT PLAN

When establishing a case management plan with a juvenile, a parent or guardian should be present. Documentation should identify all persons present during the review.

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402.5.2 REVISIONS TO CASE MANAGEMENT PLAN

Officers should conduct routine reviews of the case management plan and adjust when it reasonably appears appropriate, including any time modifications are made to the conditions of release of the client. Updates to the case management plan should be approved by a supervisor.

402.6 POST-RELEASE COMMUNITY SUPERVISION FOR ADULTS

Persons subject to post-release community supervision pursuant to Penal Code § 3451 shall be supervised in accordance with this policy and state law. The individual under supervision shall be required to comply with the following terms of post-release community supervision (Penal Code § 3453):

- (a) Obey all laws.
- (b) Report to the probation agency within two working days of release from custody.
- (c) Follow the directives and instructions of the assigned officer.
- (d) Report to the assigned officer as directed.
- (e) Be subject, along with the individual's residence, to search at any time of day or night, with or without a warrant by an officer or a peace officer (Penal Code § 3465).

Any additional post-release supervision conditions shall be reasonably related to the offense for which the individual was incarcerated, the individual's risk of recidivism, and the individual's criminal history (Penal Code § 3454).

402.7 MANDATORY SUPERVISION FOR ADULTS

Individuals on mandatory supervision pursuant to Penal Code § 1170(h)(5)(B) shall be supervised in accordance with this policy and Penal Code § 1170.

402.8 ADULT HOME DETENTION PROGRAM

If the Department provides for a home detention program, officers supervising an individual on home detention shall confirm (Penal Code § 1203.016; Penal Code § 1203.017):

- (a) That the individual is informed in writing of the rules and regulations of the program and the requirement to comply with those rules and regulations during the term of the individual's home detention.
- (b) That the individual remains inside the home during the designated hours.
- (c) That the individual permits access to the home by the officer at any time to confirm the individual's compliance with the conditions of the home detention.

402.9 NOTICE TO CLIENTS

Once a case management plan has been established, officers should review and discuss any instructions or requirements with the client and provide written notification to the client (Penal Code § 1203.7; Penal Code § 1203.12; Penal Code § 3453).

Officers should also provide clients with an overview of what the client can expect while under the supervision of the San Benito County Probation Department, including:

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- (a) Reporting and other requirements.
- (b) Applicable rules.

Updates to any instructions or requirements should be reviewed with the client.

Officers should obtain a written acknowledgement from the client that the individual has received a copy of the supervision conditions and requirements.

402.9.1 NOTICE TO SEX OFFENDERS OF PROOF OF REGISTRATION DEADLINE

At least six days prior to the deadline, officers supervising clients required to register as sex offenders under state law shall inform the client that the individual is required to provide proof of the individual's registration as a sex offender within six working days of release, and any change to the registration within six working days of the change (Penal Code § 290.85).

402.9.2 NOTICE TO PARTICIPANTS IN HOME DETENTION PROGRAM

Officers shall provide written notice of the rules governing the home detention program to clients subject to mandatory home detention (Penal Code § 1203.016; Penal Code § 1203.017).

402.9.3 NOTICE OF VOTING RIGHTS

Officers should notify clients that a printed version of information regarding voting rights for persons with a criminal history is available upon request. When requested, officers shall provide the information (Elections Code § 2105.6).

402.10 OFFICER ADULT CASE RECORD

Officers shall keep a complete and accurate record of the history of each adult client assigned to their supervision. The record shall include (Penal Code § 1203.7; Penal Code § 1203.10):

- (a) The history of the client's case in court.
- (b) The name of the assigned officer.
- (c) The acts taken by the officer in connection with the case.
- (d) The age, sex, nativity, residence, education, habits of temperance, marital status, conduct, employment, occupation, parents' occupation, and the condition of the client during the term of probation.
- (e) The result of probation.

402.10.1 OFFICER JUVENILE CASE RECORD

Officers should keep a complete and accurate record for each juvenile client assigned to their supervision pursuant to established department procedures.

402.11 TRAINING

Officers should receive training on assigning of levels of supervision and developing and implementing case management plans before supervising clients.

Compliance Monitoring

403.1 PURPOSE AND SCOPE

This policy provides guidelines for monitoring clients.

This policy applies to all officers within the San Benito County Probation Department who monitor clients.

Drug and/or alcohol testing, search and seizure issues, and task force operations are addressed in the Drug and Alcohol Testing, Search and Seizure, and Task Force policies, respectively.

403.1.1 DEFINITIONS

Definitions related to this policy include:

Monitoring - Compliance monitoring includes observation and/or surveillance of clients through available means, including visual, audio, or digital. Monitoring includes but is not limited to conducting field observation, home contacts, office contacts, employment contacts, route checks, telephone checks, field contacts to referral services and programs, location monitoring, social media reviews, or any other type of visual or digital tracking of clients.

403.2 POLICY

It is the policy of this department to fairly and objectively monitor clients in accordance with federal and state law, as well as department policies and procedures.

403.3 MONITORING PLAN

Officers should establish a monitoring plan for each client. The monitoring plan should identify types and frequency of monitoring. Officers should limit monitoring to that which is reasonably necessary to accomplish the intended verification or corroboration.

Officers should consider the following when establishing the monitoring plan:

- (a) The terms of the court order
- (b) The case management plan
- (c) Required or recommended referrals to community-based resources and services
- (d) The results of any risk assessment, including the likelihood of the client to reoffend
- (e) The purpose of the surveillance (e.g., address or employment verification, unauthorized travel check, curfew check, suspected criminal associations)

Officers should not implement any specific form of monitoring or surveillance that is not authorized by the court, judicial officer, or releasing authority order, state law, and department procedure. Officers should obtain supervisor approval if modification of the court, judicial officer, or releasing authority order or a warrant reasonably appears necessary.

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403.3.1 ADULT SEX OFFENDER REQUIREMENTS

The monitoring plan for adult clients assessed with the State Authorized Risk Assessment Tool for Sex Offenders who have a risk level of high shall include continued electronic monitoring, unless the client's court, judicial officer, or releasing authority order specifically provides that such monitoring is not needed, and intensive, specialized probation supervision that includes frequent reporting to the assigned officer (Penal Code § 1202.8; Penal Code § 1203f).

403.3.2 ADULT HOME DETENTION REQUIREMENTS

The monitoring plan for adult clients in a home detention program shall be consistent with any requirements of the home detention program and Penal Code § 1203.016 or Penal Code § 1203.017, as applicable.

403.3.3 ADULT POST-RELEASE COMMUNITY SUPERVISION ACT

The monitoring plan for persons subject to post-release community supervision should be developed in accordance with this policy and any review process established by the County (Penal Code § 3454).

403.4 GUIDELINES FOR MONITORING

When circumstances permit, officers should:

- (a) Obtain approval from a supervisor before conducting any monitoring of clients that is not provided for in the monitoring plan.
- (b) Have at least two officers present when conducting home contacts, work contacts, curfew checks, or any other type of monitoring occurring in the community.
- (c) Obtain prior approval from a supervisor for any monitoring of clients that requires more than two vehicles.

Officers should not conduct surveillance with the intent to harass, intimidate, or embarrass.

403.5 OFFICER RESPONSIBILITIES

Officers should document all monitoring conducted and observations made as a result.

An officer who is unable to adhere to a monitoring plan of an assigned client should notify a supervisor as soon as reasonably practicable and should request additional resources or an appropriate adjustment to the monitoring plan.

Changes to a monitoring plan require supervisor approval. Officers should seek supervisory approval for any changes to the monitoring plan, including adjustments based on changes to the case management plan, information learned from on-going monitoring, and alleged or observed client behavior.

403.6 SUPERVISOR RESPONSIBILITIES

The Chief Probation Officer or the authorized designee is responsible for:

- (a) Reviewing and approving the monitoring plan developed for each client.

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- (b) Reallocating resources and/or approving modifications to monitoring plans as appropriate.
 - 1. If available resources are insufficient to meet statutory or court-ordered monitoring duties, the Chief Probation Officer shall provide written notice to the presiding judge of the superior court and the appropriate local government as provided in Penal Code § 1203.74.
- (c) Identifying approved monitoring techniques and establishing and maintaining procedures for the use of the techniques. Procedures should include:
 - 1. Identification of when the use of a technique is required or prohibited.
 - 2. Any required safety measures.
 - 3. When a warrant or modification to a court order may be required.
- (d) Identifying approved technology, such as digital or video recorders, Global Positioning System (GPS) devices, voice verification/call verification systems, and radio frequency technology. Procedures for approved technology should include:
 - 1. Access control.
 - 2. Oversight.
 - 3. Compliance verification.
 - 4. System audits.

403.7 TECHNOLOGY SYSTEMS

Officers should only use technological tools that have been approved by the department and for which they have received training.

Officers should test the technology before using in the field. If the tool malfunctions in the field, a supervisor should be notified and the malfunction documented.

When investigating a possible violation of conditions, an officer should document any reasonably discovered information that may corroborate or dispute evidence obtained using the technology, including any malfunctions.

403.7.1 ADULT ELECTRONIC MONITORING

If used to monitor adult clients, electronic monitoring shall be implemented in accordance with Penal Code § 1210.7 et seq. The Chief Probation Officer shall develop written guidelines to identify clients who will be subject to continuous electronic monitoring (Penal Code § 1210.12).

Electronic monitoring may include the use of a GPS with the minimum time intervals between transmission established based on an evaluation of the available department resources, the criminal history of the client, and the safety of the victim of the client (Penal Code § 1210.10).

Any device used for continuous electronic monitoring shall (Penal Code § 1210.8):

- (a) Be designed to be worn by a person.

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- (b) Emit a signal as a person is moving or stationary that can be received and tracked across large urban or rural areas, inside or outside of structures, vehicles, or other objects to the greatest degree possible given limitations, size, and cost.
- (c) Function 24 hours a day.
- (d) Be resistant to unintentional or willful damage.

Electronic monitoring devices shall not be used to record or listen to any conversation, except for a conversation between the client and the officer used solely for voice identification (Penal Code § 1210.11).

403.7.2 JUVENILE ELECTRONIC MONITORING

If used to monitor juvenile clients, the monitoring should be conducted pursuant to the provisions outlined above for adult electronic monitoring.

403.8 SOCIAL MEDIA MONITORING

Using social media or any other internet source to access information for the purpose of monitoring clients 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 for purposes consistent with the case management plan. Social media monitoring should not be conducted unless it has been incorporated in the monitoring plan of the client or otherwise approved by a supervisor.

Members monitoring social media of clients should use only department-approved equipment while on-duty unless they are specifically authorized to do otherwise by a supervisor. If a member encounters information relevant to the monitoring of clients while off-duty or while using the member's own equipment, the member should note the dates, times, and locations related to the information and report the discovery to a supervisor as soon as practicable. The member, or others who have been assigned to do so, should attempt to replicate the finding when on-duty and using department equipment.

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

403.8.1 ACCESS RESTRICTIONS

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

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

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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 client's case file.

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 client's case file.

Any information collected in furtherance of compliance monitoring through an internet source should be documented in the client's case file. Documentation should include the source of information, the dates and times that the information was gathered, and screenshots if available.

403.9 ACCESS RESTRICTIONS

Recordings or other evidence created or received while conducting monitoring should be processed as provided in the Property Policy.

403.10 TRAINING

The department should provide periodic training to officers on this policy and related procedures. Training, subject to available resources, should include:

- (a) Use of approved methods of monitoring.
- (b) How and when to use approved technology for monitoring.
- (c) Constitutional issues that may arise during monitoring, including any warrant or court order requirements and privacy issues.
- (d) When coordination with local law enforcement or other agencies is appropriate.

Drug and Alcohol Testing

404.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines regarding drug and alcohol testing of clients under department supervision.

404.1.1 DEFINITIONS

Definitions related to this policy include:

Adulterated specimen - A specimen containing a substance that is not a normal constituent or containing an endogenous substance at a concentration that is not a normal physiological concentration.

Diluted specimen - A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Specimen - Urine or other body fluid or substance used for analysis.

404.2 POLICY

It is the policy of the San Benito County Probation Department to conduct drug and alcohol testing of clients to determine compliance with any conditions of supervision concerning drug and alcohol use, and when pursuant to other judicial order.

404.3 RESPONSIBILITIES

The Chief Probation Officer or the authorized designee should develop and maintain procedures for the administration of drug and alcohol tests, including but not limited to:

- (a) Criteria for identifying clients subject to random, scheduled, and for cause testing. The criteria should include consideration of:
 1. Conditions of supervision.
 2. Client factors such as history, current use, and behavior.
 3. Drug and alcohol assessments.
 4. Risk and needs assessments.
 5. Officer observations.
 6. Third-party information, where confirmed if necessary.
- (b) Types of unauthorized substances tested.
- (c) Specimen collection and testing procedures, including:
 1. Identification of approved testing locations.
 2. Approved testing methods.
 3. Compliance with the department's exposure control plan and any applicable occupational safety requirements (see the Communicable Diseases policy).

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4. Supervision of the client being tested during the collection of a urine specimen by officers of the same sex as the client being tested, or of the same sex with which the client identifies.
 5. Use of approved testing equipment or devices.
 6. Collection of all specimens in an area free of agents or adulterants to avoid cross contamination or dilution of specimens.
 7. Security procedures to prevent tampering with a specimen.
 8. Establishment of methods to verify that the person appearing for testing is the client subject to testing.
 9. Establishment of processes, including time frames, for a client to submit a specimen once a specimen has been requested.
- (d) Procedures for documenting the handling of specimens from the point of collection to disposal (chain of custody).

404.4 COLLECTION AND TESTING GENERALLY

Members who have been trained in department procedures for collecting specimens may collect specimens consistent with the client's case management plan, a court order, the random screening protocol, or as otherwise specified in department procedure.

404.4.1 RESPONSIVE ACTION

When a client admits to the use of an unauthorized substance, refuses to submit a specimen when required, tests positive for an unauthorized substance, or provides an adulterated or diluted specimen, the supervising officer should consider whether:

- (a) Confirmation testing is appropriate.
- (b) The failure or refusal may be a violation of the conditions of supervision and take further action pursuant to the Violations Policy.
- (c) With supervisor approval, modification to the conditions of supervision, including referral for further assessment to determine the need for outpatient or inpatient drug treatment services, would be appropriate and proceed pursuant to the Modification of Conditions of Supervision Policy.
- (d) A reassessment would be appropriate as provided in the Risk and Needs Assessments Policy.
- (e) Officers may choose to handle a violation of conditions of supervision in an informal manner, in consideration of each person's individual needs, as long as the action complies with court mandates.

If a client tests positive, admits use, or refuses to provide a sample and the officer reasonably suspects the client arrived at the testing location or intends to leave the testing location by operation of a motor vehicle while impaired, the officer should proceed according to the Violations Policy.

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404.4.2 CONFIRMATION TESTS

Supervising officers should perform testing of a client despite an admission of use.

When a specimen tests positive or is adulterated or diluted, regardless of any admission of use, reasonable efforts should be made to confirm whether the result occurred during the use of an authorized or prescribed medication or is the result of the use of a prohibited substance. This may include:

- (a) Administration of additional on-site screening.
- (b) Verification of medical prescriptions or medical marijuana identification card if use is approved by the court or conditions of the client's supervision.
- (c) Submission of an appropriate specimen, following the established chain of custody, to an approved toxicology laboratory for confirmation testing.

404.5 TRAINING

Officers should receive training on this policy and related procedures.

Modification of Conditions of Supervision

405.1 PURPOSE AND SCOPE

The purpose of this policy is to provide general guidance for the modification of conditions of supervision.

405.2 POLICY

It is the policy of this department that officers will communicate with the courts and the client to modify conditions of supervision.

405.3 APPROVALS

Officers should not modify conditions of supervision without court approval unless the court has expressly delegated the authority to do so to the officer or San Benito County Probation Department.

If court approval is not required and the modification would decrease the intensity of supervision, officers should obtain supervisor approval prior to the modification.

405.4 MODIFICATIONS

When an officer determines modification of a client's conditions of supervision may be appropriate, the officer should within a reasonable time:

- Identify the proposed modification and document the reason(s) for the proposed modification.
- Notify the client of the proposed modification and ask whether the client will agree to the modification.
- If the client is a minor, proceed with the Modification Hearing subsection (even if the client agrees to the modification).

An agreement by the client to the modification should be in writing and witnessed by a supervisor and a third-party officer or staff member.

405.4.1 MODIFICATION WITHOUT HEARING

If the client agrees to the modification and the court has expressly authorized modifications without a hearing, the officer should (Penal Code §1203.2; Penal Code § 3455):

- (a) Obtain a written waiver of the hearing from the client.
- (b) Submit to the court a copy of the modification along with the rationale for the modification and the client's agreement and waiver of hearing.

Prior to submission of court documents, the officer shall notify the client of the right to an attorney, and if indigent, the right to a court-appointed attorney (Penal Code § 1203.2). If a client waives the right to an attorney, the officer should obtain a signature from the individual on the written waiver. If the client consults with an attorney and thereafter agrees to the modification and waiver

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of personal appearance at the hearing, the officer should obtain a signature from the attorney as to the agreement (Penal Code § 1203.2; Penal Code § 3455).

405.4.2 MODIFICATION HEARING

If the client does not waive a court hearing or a hearing is required under the circumstances, the officer should:

- (a) Arrange to have a court date set.
- (b) Prepare or assist in preparing any documents required by the court (Penal Code § 1203.2; Penal Code § 3455; Welfare and Institutions Code § 778).
- (c) Notify the client of the hearing date.
 1. Notice should be in writing signed by the client and the method of notice, or reason why notice was not given, should be documented.
 2. Officers filing a petition to juvenile court to modify or set aside a condition of probation should serve a copy of the petition on the District Attorney, the minor's attorney of record, or, if there is no counsel of record, to minor and the parents or guardians (Welfare and Institutions Code § 778; Welfare and Institutions Code § 776).

405.5 CASE MANAGEMENT PLAN

Officers should review any resulting modifications with the client.

The case management plan should be modified as appropriate. See the Supervision of Clients Policy.

405.6 DOCUMENTATION

Documents associated with modifications of conditions of supervision, including any waivers and approvals, should be filed in the client's case file and retained in accordance with the Records Maintenance and Release Policy.

Violations

406.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for responding to and reporting violations of conditions of supervision.

406.2 POLICY

It is the policy of this department to respond to potential violation behavior with due diligence.

406.3 INVESTIGATIONS

Officers should begin an investigation into reported or suspected violation behavior within a reasonable time. Investigations into possible violations involving behavior reasonably believed to implicate a specific threat to public safety or to the safety of the client or another person should be given priority.

Suspected violations that may constitute additional criminal behavior should be documented sufficiently for presentation to outside agencies, such as local law enforcement for follow-up or the District Attorney for filing of additional charges. See the Report Preparation Policy.

All investigations should be documented, including whether the case was submitted to the court and/or the District Attorney and any reasons it was not.

406.4 PROCESSING VIOLATIONS

If as a result of an investigation, the officer reasonably believes violation proceedings are appropriate, the officer should make reasonable efforts to bring the matter before the court as soon as reasonably practicable.

406.4.1 REQUIRED VIOLATION REPORTING

Officers shall report any violation or breach of conditions imposed by the court to both the court that appointed the officer and the court that released the client, if different (Penal Code § 1203.7; Penal Code § 1203.12).

Officers who receive written notification that a client has been imprisoned for another offense shall submit a report to the court that released the client not later than 30 days after receiving notification of the imprisonment. Officers who otherwise discover that a client is incarcerated on another offense should make reasonable efforts to notify the releasing court of the information discovered (Penal Code § 1203.2a).

406.4.2 DISCRETIONARY VIOLATION REPORTING

Officers should consult with a supervisor in cases where they reasonably believe that despite violation behavior compliance with conditions may be achieved without court intervention. If modification of conditions is appropriate, officers should proceed in accordance with the Modification of Conditions of Supervision Policy.

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Officers who determine that intermediate sanctions are not appropriate for an individual who violated conditions of supervision on post-release community supervision (PRCS) pursuant to Penal Code § 3450 et seq. should submit a petition to the court to revoke or terminate PRCS, if appropriate, or proceed with the Modifications of Conditions of Supervision Policy (Penal Code § 3455).

406.4.3 FLASH INCARCERATION

Officers shall obtain supervisor approval prior to the imposition of flash incarceration. Officers shall notify the court, sheriff's office, District Attorney, and public defender as soon as practicable once a decision has been made to impose flash incarceration on a client (Penal Code § 1203.35). If a client does not agree to accept a recommended period of flash incarceration, the officer should report the violation to the court, if appropriate, or proceed with the Modification of Conditions of Supervision Policy, if applicable (Penal Code § 1203.35).

406.4.4 ADDITIONAL REQUIREMENTS FOR INDIVIDUALS ON POST-RELEASE COMMUNITY SUPERVISION

Officers should investigate suspected violation behavior of individuals on PRCS pursuant to Penal Code § 3450 et seq. and process violations per the Investigations and Processing Violations sections of this policy.

Officers who have a reasonable belief that an individual on PRCS has violated a condition of supervision should obtain supervisor approval prior to the implementation of flash incarceration (Penal Code § 3454).

If flash incarceration or another intermediate sanction is not appropriate, the officer should submit a petition to the court to revoke or terminate PRCS, if applicable, or proceed with the Modification of Conditions of Supervision Policy. The petition shall include a written report that contains the terms and conditions of PRCS, the circumstances of the violation, the history of the violator, and any recommendations (Penal Code § 3455). If a petition is submitted to the court, the officer should proceed with the Service of Documents, Notice to the District Attorney, Evidence Disclosure, and Notifications sections in this policy. If an arrest is appropriate, the officer should proceed with the Arrests section of this policy.

406.5 ARRESTS

Officers who reasonably believe that an arrest is appropriate based on violation behavior should take steps to initiate the arrest (i.e., by contacting local law enforcement, if appropriate under the circumstances; by obtaining an arrest warrant) within the scope of their authority and without unreasonable delay (Penal Code § 1203.2; Penal Code § 3455; Welfare and Institutions Code § 625) (see the Probation Authority policy.)

If an officer has a reasonable belief that an immediate arrest is warranted (e.g., the violation behavior implicates a specific threat (such as an intoxicated client close to operating a vehicle), abscondence is likely, the arrest is required by state law), the officer should initiate a warrantless arrest if legally permitted under the circumstances.

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If an arrest warrant is issued for the violation, the officers should request assistance from local law enforcement to serve the warrant, if appropriate.

406.6 SERVICE OF DOCUMENTS

Regardless of whether an arrest is made, the officer shall serve a copy of any petition filed with the court on the client or the attorney for the client, if known (Penal Code § 1203.2). The officer should also serve a copy of the violation report on the client or the client's attorney, if known.

A copy of the petition to revoke probation and/or violation report should be served personally on the client. If personal service cannot reasonably be made, service should be made by certified mail, return receipt requested.

If an officer reasonably believes that service may pose an unreasonable risk, the officer should request local law enforcement assistance.

406.6.1 NOTICE TO THE DISTRICT ATTORNEY

Officers shall provide a copy of the petition to revoke probation to the District Attorney (Penal Code § 1203.2). The copy should be provided as soon as practicable after filing the petition. The method of notification (e.g., personally, by certified mail) and the date should be documented.

406.6.2 EVIDENCE DISCLOSURE

Evidence that the officer intends to be used at a violation hearing should be disclosed prior to the hearing to the District Attorney. Information that is confidential or protected may have disclosure limitations and should be approved by a supervisor and/or the court prior to disclosure.

406.6.3 SUPPLEMENTAL PETITIONS IN JUVENILE COURT

Officers filing a supplemental petition to juvenile court shall serve notice of the date, time, and place of a Welfare and Institutions Code § 777 hearing to the minor's parents, foster parents, guardians, or the relatives providing care to the minor in the manner required by Welfare and Institutions Code § 658 or Welfare and Institutions Code § 660, as applicable (Welfare and Institutions Code § 777).

406.7 NOTIFICATIONS

Officers who initiate violation proceedings against clients should consider whether notification should be made to a third party or the victim of the offense for which the client is on supervision. See the Victim and Witness Assistance Policy.

Subpoenas and Court Appearances

407.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the San Benito County Probation Department to cover any related work absences and keep the Department informed about relevant legal matters.

407.2 POLICY

San Benito County Probation Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

407.3 SUBPOENAS

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

The party that issues a civil subpoena to an officer 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):

- (a) The supervisor or authorized individual will be unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena.
- (b) It is less than five working days prior to the date listed for an appearance and the supervisor or authorized individual 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 it is not possible to deliver a copy of the subpoena to the named officer within sufficient time for the named officer 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).

407.3.1 SPECIAL NOTIFICATION REQUIREMENTS

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

- (a) Any civil case where the County or one of its members, as a result of their official capacity, is a party.
- (b) Any civil case where any other city, county, state, or federal unit of government or a member of any such unit of government, as a result of their official capacity, is a party.

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- (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 their association with the San Benito County Probation Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the San Benito County Probation Department.

The supervisor will then notify the Chief Probation Officer and the appropriate prosecuting attorney as may be indicated by the case. The Chief Probation Officer should determine if additional legal support is necessary.

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

407.3.2 CIVIL SUBPOENA

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

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

407.3.3 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.

407.4 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.

407.5 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes location during the day, the member shall notify the designated department member of how the member can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

407.6 COURTROOM PROTOCOL

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the department uniform or business attire.

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- (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.

407.6.1 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. The member should also contact the prosecuting attorney regarding testimony and evidence that might be needed in court.

407.6.2 EVIDENCE

When a member is directed by a subpoena to appear in court with evidence or the prosecuting attorney requests evidence that is available to the member, that member should:

- (a) Notify the Evidence Clerk promptly after receiving the subpoena that the specified evidence is needed for court, and verify that the evidence is readily available.
- (b) Verify whether the evidence will be analyzed by the time of the court appearance, if applicable, and advise the prosecutor of any delay.
- (c) Check with the prosecuting attorney on a timely basis if in doubt about what items or materials to bring to court.
- (d) Notify the prosecuting attorney on a timely basis in the event that evidence has been lost, stolen, or misplaced, or if previously undisclosed information about the evidence has become available.
- (e) Comply with provisions of the Property Policy regarding checking out the evidence and transferring custody of the evidence to the prosecutor or the court, whichever is appropriate.

407.7 OVERTIME APPEARANCES

When a member appears in court on off-duty time, the member will be compensated in accordance with the current collective bargaining agreement or memorandum of understanding.

Interstate Transfer of Supervision

408.1 PURPOSE AND SCOPE

The purpose of this policy is to guide the processing of cases related to the Interstate Compact for Adult Offender Supervision (ICAOS) and ensure the San Benito County Probation Department's compliance with ICAOS.

408.1.1 DEFINITIONS

Compact Administrator - The individual in each compacting state responsible for the administration and management of the state's supervision and transfer of offenders, subject to the terms of ICAOS, the rules adopted by the Interstate Commission for Adult Offender Supervision, and policies adopted by the State Council.

Interstate Compact for Adult Offender Supervision (ICAOS) - A reciprocal agreement among the 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands for the controlled movement and transfer of probation supervision authority across state lines.

Interstate Compact Offender Tracking System (ICOTS) - A web-based system that facilitates the transfer of supervision for clients from one state to another. ICOTS includes mechanisms for notifications of departures, arrivals, progress, violations, and case closures.

408.2 POLICY

It is the policy of the San Benito County Probation Department to use ICOTS when planning for and organizing the movement and supervision of clients across state lines. All interstate transfer of supervision activities should comply with the uniform framework of ICAOS.

408.3 REQUEST FOR TRANSFER OF SUPERVISION BY A CLIENT

When a client requests a transfer of supervision to another state, the officer should:

- Discuss the client's request with the client, including the client's reasoning and the client's supervision plan for compliance in the potential receiving state.
- Review the client's supervision plan to ensure it meets criteria for transfer as specified in ICAOS rules, including any special criteria where applicable (e.g., mandatory transfer, sex offender transfer, emergency transfer).
- Review the client's supervision status, including the client's current compliance status with any past or present conditions of supervision.

408.4 TRANSFER, RETAKE, AND CLOSURE OF ICAOS CASES

The San Benito County Probation Department should follow the rules set forth by the Interstate Commission for Adult Offender Supervision and the State Council and should cooperate with the state Compact Administrator.

The San Benito County Probation Department should utilize ICOTS as necessary, including for notifications of departures, arrivals, progress, violations, and case closures.

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408.5 RECEIPT OF TRANSFERRED PROBATIONERS

Transferred clients received by the San Benito County Probation Department should be given an orientation consistent with the Initial Intake to Probation Services and Orientation Policy.

408.6 TRAINING

The San Benito County Probation Department should provide training to officers involved in ICAOS cases.

Interstate Transfer of Supervision of Juveniles

409.1 PURPOSE AND SCOPE

The purpose of this policy is to guide processing of Compact cases and ensure the San Benito County Probation Department's compliance with the Interstate Compact for Juveniles (ICJ).

409.1.1 DEFINITIONS

Compact Administrator - The individual in each compacting state responsible for the administration and management of the state's supervision and transfer of offenders, subject to the terms of the ICJ, the rules adopted by the Interstate Commission for Juveniles, and policies adopted by California's ICJ office.

Interstate Compact for Juveniles (ICJ) - A reciprocal agreement among the 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands for the controlled movement and transfer of probation supervision authority across state lines for juveniles (4 USC § 112).

Uniform Nationwide Interstate Tracking for Youth (UNITY) - A web-based system for tracking interstate juvenile movement.

409.2 POLICY

It is the policy of the San Benito County Probation Department to use UNITY when planning for and organizing the movement and supervision of clients across state lines. All interstate transfer of supervision activities will comply with the uniform framework of ICJ.

409.3 REQUEST FOR TRANSFER OF SUPERVISION BY A CLIENT

When a request for transfer of supervision to another state is made, the officer should:

- Confirm an appropriate legal guardian exists, or is anticipated to exist, in the receiving state.
- Discuss the request with the client and legal guardian(s), including the reasoning and the plan for compliance in the potential receiving state.
- Review the plan to ensure it meets criteria for transfer as specified in ICJ rules, including any special criteria where applicable (e.g., mandatory transfer, juvenile sex offender transfer, expedited transfer).
- Review the client's supervision status, including the client's current compliance status with any past or present conditions of supervision.
- Complete and submit applicable forms required by ICJ rules.

409.4 TRANSFER, RETAKE, AND CLOSURE OF ICJ CASES

The San Benito County Probation Department should follow the ICJ rules, and will cooperate with the state Compact Administrator.

The San Benito County Probation Department should utilize UNITY as necessary, including for notifications of departures, arrivals, progress, violations, and case closures.

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409.5 RECEIPT OF TRANSFERRED CLIENTS

Transferred clients received by the San Benito County Probation Department should be given an orientation consistent with the Initial Intake to Probation Services Policy.

409.6 TRAINING

The San Benito County Probation Department should provide training to officers involved in ICJ cases.

Cash Handling, Security, and Management

410.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure department members handle cash, cashier's checks, or money orders appropriately in the performance of their duties.

This policy does not address cash, cashier's checks, or money order handling issues specific to property, which are addressed in the Property Policy.

410.2 POLICY

It is the policy of the San Benito County Probation Department to properly handle and document transactions involving cash, cashier's checks, or money orders and to maintain accurate records of these transactions in order to protect the integrity of department operations and ensure the public trust.

410.3 PETTY CASH FUNDS

The Chief Probation Officer shall designate a person as the fund manager responsible for maintaining and managing petty cash funds.

Each petty cash fund requires the creation and maintenance of an accurate and current transaction ledger and the filing of invoices, receipts, cash transfer forms, and expense reports by the fund manager.

The cash, checks, money orders, and fund documents should be stored in a secure location (e.g., lockbox, locked file cabinet), with a limited number of assigned keys. Keys should be kept in a secure location and should not be shared with members who are not the fund manager.

410.4 PETTY CASH TRANSACTIONS

The fund manager shall document all transactions on the ledger, case notes, and any other appropriate forms. Each person participating in the transaction shall sign or otherwise validate the ledger, attesting to the accuracy of the entry. Transactions should include the filing of an appropriate receipt or invoice.,

410.5 PETTY CASH AUDITS

The front desk office assistant shall perform an audit monthly. This audit requires the Administrative Services Specialist or designee to review the transaction ledger and verify the accuracy of the accounting. The Administrative Services Specialist or designee shall validate the ledger attesting to the accuracy of all documentation by initialing the ledger. A discrepancy in the audit requires documentation by those performing the audit and an immediate reporting of the discrepancy to the Staff Analyst.

410.6 ROUTINE CASH HANDLING

Members who handle cash as part of their regular duties (e.g., property custodians, those who accept payment for department services) will discharge those duties in accordance with the procedures established for those tasks (see the Property Policy).

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410.7 OTHER CASH HANDLING

Members who, within the course of their duties, are in possession of cash, checks, or money orders that are not their property or that are outside their defined cash-handling responsibilities shall, as soon as practicable, verify the amount, summon another member to verify their accounting, and process the funds for safekeeping or as evidence or found property, in accordance with the Property 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.

Prison Rape Elimination Act

411.1 PURPOSE AND SCOPE

This policy provides guidance for compliance with the Prison Rape Elimination Act of 2003 (PREA) and the implementing regulation that establishes standards (PREA Rule) to prevent, detect, and respond to sexual abuse and sexual harassment in San Benito County Probation Department facilities (28 CFR 115.5 et seq.).

411.1.1 DEFINITIONS

Definitions related to this policy include:

Confined individual - A resident of a community confinement facility, or a detainee in a lockup, owned or operated by the San Benito County Probation Department (28 CFR 115.5).

Sexual abuse - Any of the following acts if the confined individual does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:

- (a) Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- (b) Contact between the mouth and the penis, vulva, or anus
- (c) Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument
- (d) Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation (28 CFR 115.6)

Sexual abuse also includes abuse by a member of the Department or a contractor, with or without consent of the confined individual, as follows:

- Contact between the penis and the vulva or the penis and the anus, including penetration, however slight
- Contact between the mouth and the penis, vulva, or anus
- Contact between the mouth and any body part where the department member or contractor has the intent to abuse, arouse, or gratify sexual desire
- Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties, or where the department member or contractor has the intent to abuse, arouse, or gratify sexual desire
- Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks, that is unrelated to official duties, or where the member or contractor has the intent to abuse, arouse, or gratify sexual desire
- Any attempt, threat, or request by the department member or contractor to engage in the activities described above

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- Any display by the department member's or contractor's uncovered genitalia, buttocks, or breast in the presence of a confined individual
- Voyeurism by the department member or contractor

Sexual harassment - Repeated and unwelcome sexual advances; requests for sexual favors; verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one confined individual that are directed toward another; repeated verbal comments or gestures of a sexual nature to a confined individual by a member of the Department or contractor, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures (28 CFR 115.6).

411.2 POLICY

The San Benito County Probation Department has zero tolerance with regard to sexual abuse and sexual harassment in its facilities. This department will take appropriate affirmative measures to protect all confined individuals from sexual abuse and harassment, or retaliation against any person who reports sexual abuse or sexual harassment, or who cooperates with a sexual abuse or sexual harassment investigation, and will promptly, thoroughly, and objectively investigate all allegations of sexual abuse and sexual harassment (28 CFR 115.111; 28 CFR 115.211).

411.3 PREA COORDINATOR

The Chief Probation Officer shall delegate certain responsibilities to a PREA coordinator. The coordinator shall be an upper-level manager. The coordinator must have sufficient time and authority to develop, implement, and oversee department efforts to comply with PREA standards (28 CFR 115.111; 28 CFR 115.211).

The responsibilities of the PREA coordinator shall include developing and maintaining standards and procedures to comply with the PREA Rule.

411.3.1 CONTRACTS WITH OUTSIDE AGENCIES

The PREA coordinator shall ensure that any contract for the confinement or detention of confined individuals includes the requirement to adopt and comply with applicable provisions in PREA and the implementing regulations, including the obligation to provide incident-based and aggregated data, as required in 28 CFR 115.287 (28 CFR 115.212).

The PREA coordinator shall implement agreements and/or memorandums of understanding for any outside investigation agencies responsible for sexual abuse investigations that include compliance with the appropriate protocol, appropriately trained investigators, evidence collection practices, forensic medical examination requirements, and an agreement to keep the San Benito County Probation Department apprised of the progress of sexual abuse investigations (28 CFR 115.221; 28 CFR 115.271).

411.4 PERSONNEL ISSUES

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411.4.1 DISQUALIFICATION DECISIONS

Every person who may have confined individual contact as a member or contractor shall, prior to service, undergo a thorough background investigation to verify personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the San Benito County Probation Department.

The San Benito County Probation Department shall not hire, promote, assign, or transfer any member or contractor to a position that may allow contact with confined individuals if the member has (28 CFR 115.117; 28 CFR 115.217):

- (a) Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution as defined in 42 USC § 1997.
- (b) Been convicted of engaging in or attempting to engage in sexual activity that was facilitated by force, or overt or implied threats of force, or by coercion, or if the victim did not consent or was unable to consent or refuse.
- (c) Been civilly or administratively adjudicated to have engaged in the activity described in paragraph (b) of this subsection.

The department shall ask all candidates who may have contact with confined individuals to disclose any applicable misconduct during written applications or interviews. Material omissions regarding such misconduct, or the provision of materially false information, are grounds for termination.

411.4.2 PREA DISCLOSURE

Members have a continuing affirmative duty to notify the Chief Probation Officer in writing if they have (28 CFR 115.117; 28 CFR 115.217):

- (a) Engaged in sexual abuse in a prison, jail, lockup, community confinement facility, juvenile facility, or other institution as defined in 42 USC § 1997.
- (b) Been convicted for an offense involving engaging in or attempting to engage in sexual activity facilitated by force, by overt or implied threats of force, or by coercion, or if the victim did not consent or was unable to consent or refuse.
- (c) Been the subject of any civil or administrative adjudication finding that the member engaged in sexual activity facilitated by force, by overt or implied threats of force, or by coercion, or if the victim did not consent or was unable to consent or refuse.

The department shall ask all employees who may have contact with confined individuals to disclose any applicable misconduct during written evaluations or reviews. Material omissions regarding such misconduct, or the provision of materially false information, are grounds for termination.

411.4.3 PRESERVATION OF ABILITY TO PROTECT PROBATIONERS

The Department shall not enter into or renew any memorandum of understanding, collective bargaining agreement, or other agreement that limits the department's ability to remove alleged

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staff sexual abusers from contact with any client pending the outcome of an investigation or of a determination of whether and to what extent discipline is warranted (28 CFR 115.266).

Bias-Based Supervision

412.1 PURPOSE AND SCOPE

This policy provides guidance to San Benito County Probation Department members that affirms the County's commitment to supervision that is fair and objective.

Nothing in this policy prohibits the use of specified characteristics in probation activities designed to strengthen the department's relationship with its diverse communities (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, and partnerships).

412.1.1 DEFINITIONS

Definitions related to this policy include:

Bias-based supervision - 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 supervision services or enforcement of court orders.

412.2 POLICY

The San Benito County Probation Department is committed to providing supervision services to the community with due regard for the racial, cultural, or other differences of those served. It is the policy of this department to provide probation services and to enforce the law and conditions set by the court equally, fairly, objectively, and without discrimination toward any individual or group.

412.3 BIAS-BASED SUPERVISION PROHIBITED

Bias-based supervision is strictly prohibited.

However, nothing in this policy is intended to prohibit an officer 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.

412.4 MEMBER RESPONSIBILITIES

Every member of this department shall perform their duties in a fair and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based supervision to a supervisor. Members should, when reasonable to do so, intervene to prevent any bias-based actions by another member.

412.4.1 REASON FOR CONTACT

Officers 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), the involved officer should include those facts giving rise to the contact.

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Except for required data-collection forms or methods, nothing in this policy shall require any officer to document a contact that would not otherwise require reporting.

412.5 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 officer and the officer's supervisor in a timely manner.
 - 1. Supervisors should document these discussions in the prescribed manner.
- (b) Supervisors should periodically review Mobile Audio/Video (MAV) recordings, portable audio/video recordings, Mobile Data Terminal (MDT) data, and any other available resource used to document contact between officers and the public to ensure compliance with this policy.
 - 1. Supervisors should document these periodic reviews.
 - 2. Recordings or data that capture a potential instance of bias-based supervision 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 department who discloses information concerning bias-based supervision.

412.6 TRAINING

Training on fair and objective supervision and review of this policy should be conducted as directed by the Training Manager.

Chapter 5 - Field and Special Operations

Crime Scene Integrity and Investigation

500.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the discovery of a crime or crime scene by department members and any corresponding investigation of a crime.

This policy is intended to address criminal investigations of new crimes or crime scenes, not specific violations of an offender's terms of probation. See the Violations Policy.

500.2 POLICY

It is the policy of this department to secure the safety of the public and the preservation of crime scenes, when reasonably practicable, until relieved by local law enforcement, a supervisor, or other designated person. It is also the policy of this department to cooperate with local law enforcement in the investigation of newly discovered crimes as set forth in this policy.

500.3 INITIAL CONSIDERATIONS

Officers who become aware of a crime or crime scene, including one that may involve clients under the supervision of the Department, should contact the appropriate local law enforcement agency as soon as practicable. If the alleged crime is limited to possession of controlled substances or paraphernalia, or sales of controlled substances the officer may choose to investigate the matter or contact the appropriate local law enforcement agency.

If the crime involves a client under supervision by the Department, the officer should coordinate investigative responsibilities and share relevant information with the responding local law enforcement agency.

An officer who reasonably believes that an individual present during the commission of a crime or at a crime scene is under probation supervision by another officer or other department should take reasonable steps to notify the individual's supervising officer or the associated department to coordinate any necessary investigative responsibilities.

500.3.1 RESPONSE

Officers who encounter or who are first to arrive at a crime scene should:

- (a) Contact local law enforcement.
- (b) Contact other local agencies (e.g., emergency medical services, fire) and request additional assistance and resources, if appropriate.
- (c) Notify a supervisor.
- (d) When reasonably practicable, provide for the general safety of those within the immediate area by mitigating, reducing, or eliminating threats or dangers.
- (e) Evacuate the location safely as required or appropriate.
- (f) Identify potential witnesses.

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500.4 ARRESTS

An officer at the location of a crime or crime scene should not initiate an arrest unless the officer has a reasonable belief that an immediate arrest is appropriate and only if legally permitted under the circumstances. Additional guidance regarding officer arrest authority under California law is provided in the Probation Authority Policy.

Circumstances involving domestic violence may require exceptional handling under California law.

500.4.1 ARRESTS AND INVESTIGATIONS INVOLVING DOMESTIC VIOLENCE

Absent extenuating circumstances involving an imminent threat of death or bodily injury to the officer or another person, officers who have probable cause to believe that an offense involving domestic violence has occurred within their presence should request response by the appropriate local law enforcement agency.

This should be considered even if the officer has arrest authority under California law. However, if the officer is authorized or required to take enforcement action, the officer shall take steps to reasonably ensure that appropriate action is taken, including an arrest when there is probable cause to do so. In such case, any decision not to arrest shall be made by the officer's supervisor.

Officers shall also take steps to reasonably ensure any other mandatory action related to domestic violence is accomplished. This may include mandates related but not limited to the following:

- (a) Required victim notifications or assistance.
- (b) The service of court orders.
- (c) Seizure of firearms or other deadly weapons in accordance with Penal Code § 18250 if the incident involved threats of bodily harm or physical assault and the firearm or weapon is discovered in plain view or pursuant to consent or other lawful search.

500.5 EVIDENCE

Officers should not conduct searches beyond the scope of their authority. Evidence discovered at a crime scene and that pertains to an officer's investigation of a probation violation should be documented and preserved as soon as practicable in accordance with the Search and Seizure Policy.

500.6 REPORTS

Reports should include adequate investigative information and reference to all evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in a related criminal case, as well as information that may adversely affect the credibility of a witness. If an officer learns of potentially incriminating or exculpatory information any time after submission of a report, the officer should prepare and submit a supplemental report documenting such information as soon as practicable.

Officers should proceed with the Violations Policy when the investigation involves a violation of probation conditions.

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500.6.1 DISCLOSURE OF REPORTS

Upon completion, reports, including any supplemental reports, should be transmitted to the prosecutor's office and to any other agency to whom the original report was sent (e.g., local law enforcement agency). If information is believed to be privileged or confidential (e.g., informant or protected information), release should be approved by a supervisor prior to disclosure.

Disclosure of protected information in this context may be subject to the Records Maintenance and Release and Protected Information policies. See the Violations Policy, regarding information disclosure as part of a probation violation hearing.

500.7 RECORDS

Reports created in relation to a crime or crime scene investigation should be retained in accordance with the Records Maintenance and Release Policy.

Ride-Alongs

501.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for a ride-along with members of the San Benito County Probation Department. This policy provides the requirements, approval process, hours of operation, and member responsibilities for ride-alongs.

501.2 POLICY

Ride-along opportunities may be provided to members of the public, County employees, and members of this department to observe and experience, firsthand, various functions of the San Benito County Probation Department. The term "ride-along" includes riding as a passenger with an officer performing field supervision or observing the work day of members engaging in other functions within the Department facilities, such as office contacts with clients or supervised persons.

501.3 ELIGIBILITY

A ride-along is available to any individual approved by the Chief Probation Officer or the authorized designee. Efforts will be made to accommodate all interested persons. However, any applicant may be disqualified from participating without cause.

Factors that may be considered in disqualifying an applicant include, but are not limited to:

- Being younger than 15 years of age.
- Prior criminal history.
- Pending criminal action.
- Pending lawsuit against this department or the County.
- Denial by any supervisor.

501.4 AVAILABILITY

A ride-along or job observation is available most days of the week, from 8:00 a.m. to 5:00 p.m. Exceptions to this schedule may be made as approved by the supervisor.

501.5 REQUESTS TO PARTICIPATE

Generally, ride-along and job observation requests will be maintained and scheduled by the supervisor. The applicant will complete and sign a ride-along or job observation waiver form. If the applicant is younger than 18 years of age, a parent or guardian must be present to complete the waiver form. Information requested will include a valid state-issued identification card or driver's license number, birth date, address, and telephone number.

The supervisor will schedule a date, based on availability, generally one week after the date of application. If approved, a copy of the waiver form will be forwarded to the appropriate division as soon as possible for scheduling considerations.

If the request is denied, a representative of this department will advise the applicant of the denial.

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501.6 PROCEDURES

Once approved, ride-along applicants will be allowed to participate no more than once every six months. An exception may apply to the following law enforcement-involved participants:

- Volunteers
- Chaplains
- San Benito County Probation Department applicants
- Any others with approval of the supervisor
- Student workers or interns

An effort will be made to ensure that no more than one member of the public will participate in a ride-along or job observation during any given time period. Normally, no more than one ride-along participant will be allowed in department vehicles at a given time.

501.6.1 OFF-DUTY PARTICIPATION

Off-duty members of this department or any other law enforcement agency, and employees of the County, will not be permitted to participate in a ride-along with on-duty members of this department without the express consent of the supervisor.

In the event that such participation is permitted, the off-duty department member, other law enforcement agency personnel, or County employee shall not:

- (a) Be considered on-duty.
- (b) Represent themselves as members of this department or any other law enforcement agency.
- (c) Participate in any law enforcement activity except as emergency circumstances may require.

501.6.2 CRIMINAL HISTORY CHECK

All ride-along applicants are subject to a criminal history check. The criminal history check may include a local records check and a Department of Justice Automated Criminal History System check prior to approval of the ride-along.

501.6.3 SUITABLE ATTIRE

Any person approved to participate in a ride-along is required to be suitably dressed in a collared shirt, blouse or jacket, slacks, and shoes. Sandals, T-shirts, tank tops, shorts, and ripped or torn pants are not permitted. Hats and ball caps will not be worn without the express consent of the supervisor. The supervisor, or a lead staff member in the absence of a supervisor, may refuse a ride-along to anyone who is not dressed appropriately.

501.7 MEMBER RESPONSIBILITIES

The assigned department member shall consider the safety of the ride-along or job observation participant at all times. The member shall maintain control over the participant and shall instruct the individual about conditions that necessarily limit participation. Instructions should include:

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- (a) The participant will follow the directions of the department member.
- (b) The participant will not become involved in any investigation, handling of evidence, discussions with victims, clients, supervised persons or suspects, reading an individual's criminal history or other protected information, or handling any probation department equipment.
- (c) Participation may be terminated at any time by the member if the participant interferes with the performance of the member's duties.
 - 1. If the ride-along is in progress, the member may return the participant to the point the ride originated.
- (d) Participants may be allowed to continue a ride-along during the transportation and booking process, provided it does not jeopardize their safety.
- (e) Members will not allow participants to be present in any location or situation that would jeopardize the participant's safety or cause undue stress or embarrassment to a victim or any other member of the public.
- (f) Participants who are not probation or law enforcement officers shall not be permitted to accompany the department member into a private residence without the express consent of the resident or other authorized person.

The member assigned to provide a ride-along shall advise the supervisor, or lead staff in the absence of a supervisor, that a ride-along participant is present in the vehicle before going into service. An officer with a ride-along participant should use sound discretion when encountering a potentially dangerous situation and, if feasible, let the participant out of the vehicle in a well-lit public place. The supervisor, or lead staff in the absence of a supervisor, will be advised of the situation and as soon as practicable have another department member respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

Conduct by a person participating in a ride-along that results in termination of the ride, or is otherwise inappropriate, should be immediately reported to the supervisor. The member should enter comments regarding the reasons for terminating the ride-along on the waiver form.

Upon completion of the ride-along, the member shall return the waiver form to the supervisor.

Hazardous Material Response

502.1 PURPOSE AND SCOPE

Exposure to hazardous materials presents potential harm to department members and the public. This policy outlines the factors that members should consider when they encounter hazardous material, including the reporting of exposures and supervisor responsibilities.

502.1.1 DEFINITIONS

Definitions related to this policy include:

Hazardous material - A substance that by its nature, containment, or reactivity has the capability of inflicting harm during exposure; is characterized as being toxic, corrosive, flammable, reactive, an irritant, or a strong sensitizer; and thereby poses a threat to health when improperly managed.

502.2 POLICY

It is the policy of the San Benito County Probation Department to immediately contact the appropriate local emergency services to respond to hazardous material emergencies in order to protect the safety of clients, the public, and those members who may be exposed to such incidents.

502.3 HAZARDOUS MATERIAL EXPOSURE

Members may encounter situations involving suspected hazardous materials, such as a chemical spill in the workplace. When members come into contact with a suspected hazardous material, they should take certain steps to protect themselves and other persons.

The fire department is the agency trained and equipped to properly respond to and mitigate most incidents involving hazardous materials and biohazards.

Members should not perform tasks or use equipment without proper training. Officers present at a hazardous material incident may require decontamination before they are allowed to leave the scene and should be evaluated by appropriate technicians and emergency medical services personnel for signs of exposure.

502.4 CONSIDERATIONS

These steps should be considered at any scene involving suspected hazardous materials:

- (a) Make the initial assessment of a potentially hazardous material from a safe distance.
- (b) Notify appropriate supervisors, the appropriate fire department and hazardous response units, and local law enforcement.
 1. Provide weather conditions, wind direction, a suggested safe approach route, and any other information pertinent to responder safety.
- (c) Wear personal protective equipment (PPE), as available and as trained, being cognizant that some hazardous material can be inhaled.
- (d) Remain upwind, uphill, and at a safe distance, maintaining awareness of weather and environmental conditions, until the material is identified and a process for handling has been determined.

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- (e) Attempt to identify the type of hazardous material from a safe distance using optical aids (binoculars or spotting scopes) if they are available. Identification can be determined by:
 - 1. Placards or use of an emergency response guidebook.
 - 2. Driver's statements or shipping documents from the person transporting the material.
 - 3. Information obtained from any involved person with knowledge regarding the hazardous material. Information should include:
 - (a) The type of material.
 - (b) How to secure and contain the material.
 - (c) Any other information to protect the safety of those present, the community, and the environment.
- (f) Provide first aid to injured parties if it can be done safely and without contamination.
- (g) Make reasonable efforts to secure the scene to prevent access from unauthorized individuals and to protect and identify any evidence.
- (h) Begin evacuation of the immediate and surrounding areas, dependent on the material. Voluntary evacuation should be considered; mandatory evacuation may be necessary and will depend on the type of material.
- (i) Establish a decontamination area when needed.

502.5 REPORTING EXPOSURE

Department members who believe they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the member in an incident report that shall be forwarded via chain of command to the Chief Probation Officer as soon as practicable. If the affected member is unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the report.

Injury or illness caused or believed to be caused by exposure to hazardous materials shall be reported the same as any other on-duty injury or illness, in addition to a crime report or incident report as applicable.

502.5.1 SUPERVISOR RESPONSIBILITIES

When a supervisor has been informed that a member has been exposed to a hazardous material, the supervisor shall ensure that immediate medical treatment is obtained and appropriate action is taken to mitigate the exposure or continued exposure.

To ensure the safety of members, PPE is available from supervisors. PPE not maintained by this department may be available through the Office of Emergency Services.

Hostage and Barricade Incidents

503.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for situations where officers have legal cause to contact, detain, or arrest a person, and the person refuses to submit to the lawful requests of the officers 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 officers encounter during their initial response or when a hostage or barricade situation has developed. This policy does not require or recommend specific strategies or tactics for resolution as each incident is a dynamic and rapidly evolving event.

503.1.1 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:

- Unlawfully held by a hostage-taker as security so that specified terms or conditions will be met.
- Unlawfully held against the person's will under threat or actual use of force.

503.2 POLICY

It is the policy of the San Benito County Probation Department to address hostage and barricade situations by immediately contacting local law enforcement.

503.3 COMMUNICATION

When circumstances permit, initial responding officers should try to establish and maintain lines of communication with a barricaded person or hostage-taker. The focus of communication should be to stabilize the situation while awaiting local law enforcement.

503.4 CONSIDERATIONS

Officers should promptly and carefully evaluate all available information to determine whether an incident involves, or may later develop into, a hostage or barricade situation.

Officers should immediately contact local law enforcement when it is determined that a hostage or barricade situation exists.

The handling officer should brief the arriving local law enforcement officers 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.

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503.4.1 BARRICADE SITUATION

Unless circumstances require otherwise, officers 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 local law enforcement, specialized personnel, and trained negotiators.

503.4.2 HOSTAGE SITUATION

Officers presented with a hostage situation should attempt to avoid a forceful confrontation in favor of controlling the incident in anticipation of the arrival of local law enforcement, specialized personnel, and trained hostage negotiators. However, it is understood that hostage situations are dynamic and can require that officers react quickly to developing or changing threats.

503.5 RESPONSIBILITIES

Upon being notified that a hostage or barricade situation exists, the supervisor should immediately respond to the scene, establish a proper chain of command, and assume the role of Incident Supervisor until properly relieved by local law enforcement.

503.6 REPORTING

Unless otherwise relieved by a supervisor, the handling officer at the scene is responsible for completion of an incident report.

Response to Bomb Threat Calls

504.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to assist members of the San Benito County Probation Department in their initial response to incidents involving explosives or 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.

504.2 POLICY

It is the policy of the San Benito County Probation Department to place a higher priority on the safety of persons and the public over damage or destruction to public or private property.

504.3 RECEIPT OF BOMB THREAT

Department 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 and should immediately contact the appropriate local law enforcement agency to convey the information.

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 department evidence procedures.

504.4 SAN BENITO COUNTY PROBATION DEPARTMENT FACILITY

If the bomb threat is against the department facility, the member who received the threat should immediately contact the appropriate local law enforcement agency and notify the supervisor as soon as practicable. The supervisor, in coordination with local law enforcement, will direct and assign officers as required for coordinating a general building search or evacuation of the department, as deemed appropriate.

504.5 OTHER COUNTY OR MUNICIPAL FACILITY OR PROPERTY

If the bomb threat is against a county or municipal facility within the jurisdiction of San Benito County that is not the property of this department, assistance to the other entity may be provided as the supervisor deems appropriate once the appropriate local law enforcement agency has been notified of the threat.

504.6 FEDERAL BUILDING OR PROPERTY

If the bomb threat is against a federal building or property, local law enforcement and the Federal Protective Service should be immediately notified. The Federal Protective Service provides a uniformed law enforcement response for most facilities, which may include use of its Explosive Detector Dog teams.

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If the bomb threat is against a federal government property where the Federal Protective Service is unable to provide a timely response, the appropriate facility's security or command staff should be notified.

Bomb threats against a military installation should be reported to local law enforcement and the military police or other military security responsible for the installation.

504.7 PRIVATE FACILITY OR PROPERTY

When a member of this department receives notification of a bomb threat at a location in the County of San Benito, 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 law enforcement assistance at the facility.
- (f) Whether any internal facility procedures exist regarding bomb threats, such as:
 1. No evacuation of personnel and no search for a device.
 2. Search for a device without evacuation of personnel.
 3. Evacuation of personnel without a search for a device.
 4. Evacuation of personnel and a search for a device.

The member receiving the bomb threat information should ensure that local law enforcement is notified. Also notify the department supervisor immediately so that the supervisor can communicate with the person in charge of the threatened facility as necessary.

504.8 ASSISTANCE

The Chief Probation Officer or the authorized designee should be notified when department assistance is requested. The Chief Probation Officer or authorized designee will make the decision whether the Department will render assistance to responding law enforcement 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 evacuation and giving officers control over the facility.

Should the Chief Probation Officer or authorized designee determine that the department will assist law enforcement with such an incident, the Chief Probation Officer or authorized designee will determine:

- (a) The appropriate level of assistance.
- (b) The plan for assistance in consultation with responding local law enforcement.
- (c) Whether to evacuate and/or search the facility.

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- (d) Whether to involve facility staff in the search or evacuation of the building.
 - 1. The safety of all participants is the paramount concern.
- (e) The need for additional resources, including:
 - 1. Notification and response, or standby notice, for fire and emergency medical services.

Even though a facility does not request local law enforcement's assistance to clear the interior of a building, based upon the circumstances and known threat, officers 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.

504.9 SUSPECTED 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:
 - 1. Two-way radios.
 - 2. Cell phones.
 - 3. Other personal communication devices.
- (a) 911 should be summoned for assistance.
- (b) The largest perimeter reasonably possible should initially be established around the device based upon available personnel and the anticipated danger zone.
- (c) A safe access route should be provided for support personnel and equipment.
- (d) Consider evacuation of buildings and personnel near the device or inside the danger zone and the safest exit route.
- (e) Promptly relay available information to local law enforcement and the Chief Probation Officer or authorized designee 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.

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504.10 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, the supervisor may be confronted with a multitude of considerations. As in other catastrophic events, a rapid evacuation may help to minimize injury to victims, contamination of the scene, or any additional damage from fires or unstable structures.

504.11 PRESERVATION OF EVIDENCE

As in any other crime scene, steps should immediately be taken to preserve the scene.

504.11 CROWD CONTROL

Only authorized members with a legitimate need should be permitted access to the scene and only at the direction of local law enforcement. Spectators and other unauthorized individuals should be restricted to a safe distance as is reasonably practicable given the available resources and personnel.

Crisis Intervention Incidents

505.1 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 officer to make difficult judgments about a person's mental state and intent in order to effectively and legally interact with the individual.

505.1.1 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 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; noncompliance 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.

505.2 POLICY

The San Benito County Probation Department 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 Department 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.

505.3 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, or lack of control
- (i) Lack of fear
- (j) Anxiety, aggression, rigidity, inflexibility, or paranoia

Members should be aware that this list is not exhaustive. The presence or absence of any of these signs should not be treated as proof of the presence or absence of a mental health issue or crisis.

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505.4 CRISIS INTERVENTION RESPONSE

Safety is a priority during any crisis intervention. 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 officers; such a threat should be addressed with reasonable tactics. Nothing in this policy shall be construed to limit an officer's authority to use reasonable force when interacting with a person in crisis.

Officers are reminded that mental health issues, mental health crises, and unusual behavior are not criminal offenses. Individuals may benefit from treatment as opposed to incarceration.

An officer interacting with 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 local law enforcement and/or available backup officers 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 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 action or inaction, as perceived by the officer.
- (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 and report the same to local law enforcement, if applicable.
- (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.

505.5 DE-ESCALATION

Officers 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, members should be aware of the following considerations and should generally:

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- Evaluate safety conditions.
- Introduce themselves and attempt to obtain the person's name.
- Be patient, polite, calm and 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 (i.e., summarize the person's verbal communication).
- Provide for sufficient avenues of retreat or escape should the situation become volatile.

Officers 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.

505.6 INCIDENT ORIENTATION

When encountering an incident that may involve mental illness or a mental health crisis, the officer should request critical information as it becomes available. This includes:

- (a) Whether the person relies on drugs or medication or may have failed to take medication.
- (b) Whether there have been prior incidents or suicide threats/attempts, and whether there has been previous probation or other law enforcement response.
- (c) Contact information for a treating physician or mental health professional.

Additional resources and a supervisor should be requested as warranted.

505.7 SUPERVISOR RESPONSIBILITIES

If possible, a supervisor should respond to the scene of any interaction with a person in crisis.

Responding supervisors should:

- (a) Attempt to secure appropriate and sufficient resources.
- (b) Closely monitor any use of force, including the use of restraints, and ensure that those subjected to the use of force are provided with timely access to medical care (see the Handcuffing and Restraints Policy).
- (c) Absent an imminent threat to the public, consider strategic disengagement. This may include removing or reducing department resources or engaging in passive monitoring.
- (d) Ensure that all reports are completed and that incident documentation uses appropriate terminology and language.

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- (e) Conduct an after-action tactical and operational debriefing and prepare an incident report to be forwarded to the supervisor.
- (f) Evaluate whether a critical incident stress management debriefing for involved members is warranted.

505.8 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 department reporting procedures or other official mental health or medical proceedings.

505.9 NON-SWORN INTERACTION WITH PEOPLE IN CRISIS

Members, including but not limited to clerical staff, may interact with persons in crisis in an administrative capacity, such as during records requests or phone calls.

- (a) Members should treat all individuals equally and with dignity and respect.
- (b) If during an interaction, a member believes a person is in crisis, the member 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 self-harm or be harmful to others, an officer should be promptly summoned to provide assistance.

Civil Commitments

506.1 PURPOSE AND SCOPE

This policy provides guidelines for when officers may take steps to place a client under mental health hold (5150 commitment) (Welfare and Institutions Code § 5150).

506.2 POLICY

It is the policy of the San Benito County Probation Department to protect the public and clients through legal and appropriate use of the mental health hold process.

506.3 AUTHORITY

An officer having probable cause may take a client under the officer's supervision into custody and place the client in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental health disorder, the client is a danger to self or others or the client is gravely disabled (Welfare and Institutions Code § 5150).

When determining whether to take a client into custody, officers are not limited to determining the client is an imminent danger and shall consider reasonably available information about the historical course of the client'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 client
- (b) A family member
- (c) The client subject to the determination or anyone designated by the client

506.3.1 AUTHORITY FOR MINORS

An officer having probable cause may take a client under the officer's supervision into custody and place the client in an approved mental health facility for 72-hour treatment and evaluation when the officer believes that, as a result of a mental disorder, the client is a danger to self or others or the client is a gravely disabled minor and authorization for voluntary treatment is not available (Welfare and Institutions Code § 5585.50).

Gravely disabled minor means a minor who, as a result of a mental disorder, is unable to use the elements of life that are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others. Intellectual disability, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder (Welfare and Institutions Code § 5585.25).

506.3.2 VOLUNTARY EVALUATION

If an officer encounters a client who may qualify for a mental health hold or an involuntary commitment, the officer may inquire as to whether the client desires to be voluntarily evaluated at an appropriate facility. If the client so desires, the officer should:

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- (a) Transport the client to an appropriate facility that is able to conduct the evaluation and admit the person.
- (b) Document the circumstances surrounding the client's desire to pursue voluntary evaluation and/or admission.

If at any point the person withdraws an affirmative decision for a voluntary evaluation, the officer should proceed with the application for emergency mental health evaluation, if appropriate.

506.4 CONSIDERATIONS AND RESPONSIBILITIES

Any officer who comes into contact with a client who may qualify for detention for the purpose of a mental health hold or an involuntary commitment should consider, as time and circumstances reasonably permit:

- (a) Contacting local law enforcement for assistance, if appropriate.
- (b) Available information that might assist in determining the possible cause and nature of the person's actions or stated intentions.
- (c) Community or neighborhood mediation services.
- (d) Conflict resolution and de-escalation techniques.
- (e) Community or other resources that may be readily available to assist with mental health issues.

While these steps are encouraged, nothing in this section is intended to dissuade officers from taking reasonable action to ensure the safety of the officers and others. See also the Risk and Needs Assessment, Supervision, Modification of Conditions of Supervision, and Violations policies.

Mental health holds should be preferred over arrest for people who have mental health issues and are suspected of committing minor crimes or creating other public safety issues.

506.4.1 SECURING OF PROPERTY

When a client 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 client's personal property, the officer shall take reasonable precautions to safeguard the personal property in the client's possession or on the premises occupied by the client (Welfare and Institutions Code § 5150).

The officer taking the client into custody shall provide a report to the court that describes the client'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 officer shall only include the name of the responsible person and the location of the property (Welfare and Institutions Code § 5150).

506.5 TRANSPORTATION

When transporting any client for a mental health hold, the transporting officer should notify a supervisor and the receiving facility of the estimated time of arrival, the level of cooperation of

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the client, and whether any special medical care is needed. If appropriate, NETCOM should be utilized.

Officers may transport individuals in a department vehicle and shall secure them in accordance with the Handcuffing and Restraints Policy. Should the client require transport in a medical transport vehicle and the safety of any person, including the client, requires the presence of an officer during the transport, supervisor approval is required before transport commences.

506.6 TRANSFER TO APPROPRIATE FACILITY

Upon arrival at the facility, the officer will escort the client into a treatment area designated by a facility staff member. If the client is not seeking treatment voluntarily, the officer should provide the staff member with the written application for a mental health hold and remain present to provide clarification of the grounds for detention, upon request.

506.7 DOCUMENTATION

The officer shall complete an Application for 72-Hour Detention for Evaluation and Treatment form, provide it to the facility staff member assigned to the client, and retain a copy of the application for inclusion in the case report.

The application shall include the circumstances for the officer involvement; the probable cause to believe the client is, as a result of a mental health disorder, a danger to others or self or gravely disabled; and all information used for the determination of probable cause (Welfare and Institutions Code § 5150; Welfare and Institutions Code § 5150.2).

The officer should also provide a verbal summary to any evaluating staff member regarding the circumstances leading to the involuntary detention.

506.7.1 ADVISEMENT

The officer taking a client into custody for evaluation shall advise the client of (Welfare and Institutions Code § 5150):

- (a) The Officer's name and agency.
- (b) The fact that the client is not under criminal arrest but is being taken for examination by mental health professionals and the mental health staff will advise the client of the client's rights.
- (c) The name of the facility to which the client is being taken.
- (d) If the client is being taken into custody at the client's residence, the client should also be advised to take a few personal items, which the officer must approve, and may make a telephone call or leave a note indicating where the client is being taken. The officer should also ask if the client needs assistance turning off any appliances or water.

The advisement shall be given in a language the client understands. If the client cannot understand an oral advisement, the information shall be provided in writing (Welfare and Institutions Code § 5150).

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506.8 CRIMINAL OFFENSES

Officers investigating a client who is suspected of committing a minor violation and who is being taken into custody through a mental health hold, should resolve the violation by completing a report and forwarding the information, as appropriate.

When an officer discovers, during a home visit or otherwise, that a client has committed a serious criminal offense that would normally result in an arrest and transfer to a jail facility (e.g., domestic violence, child abuse, homicide), the officer should:

- (a) Immediately contact the appropriate local law enforcement agency and inform them of the offense and reasons why a mental health hold may be appropriate.
- (b) Inform responding local law enforcement personnel of the facts supporting an arrest and the facts that would support a detention.
- (c) Notify the Supervisor as soon as practicable.
- (d) Thoroughly document in the related reports the circumstances that indicate the client may qualify for a mental health hold.

506.9 FIREARMS AND OTHER WEAPONS

Whenever a client is taken into custody for a mental health hold or an involuntary commitment, the handling officers should seek to determine if the client owns or has access to any firearm or other deadly weapon as defined in Welfare and Institutions Code § 8100. Officers 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). If the officer has determined a firearm or dangerous weapon should be seized, the appropriate local law enforcement agency shall be contacted to take possession of the weapon.

Officers 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., entry is authorized under the terms and conditions of the person's probation; the person consents). A warrant may also be needed before searching for or seizing weapons.

506.10 TRAINING

This department will endeavor to provide department-approved training on interaction with individuals who may be experiencing mental illness, mental impairment, or mental disability, mental health holds, and crisis intervention.

Rapid Response and Deployment

507.1 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 and probation. The purpose of this policy is to identify guidelines and factors that will assist officers in situations that call for rapid response and deployment.

507.2 POLICY

The San Benito County Probation Department will endeavor to plan for rapid response to crisis situations, and to coordinate response planning with other emergency services as well as with those who 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 Department in protecting themselves or others from death or serious injury.

507.3 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.

507.4 FIRST RESPONSE

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding officers should consider reasonable options to reduce, prevent, or eliminate the threat. Officers 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, officers should take immediate action, if reasonably practicable, while requesting additional assistance.

Officers 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 incidents at other locations.

When deciding on a course of action, officers should consider:

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- (a) Whether to advance on or engage a suspect who is still a possible or perceived threat to others. Any advancement 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 officer 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 officers have the ability to effectively communicate with other personnel or resources.
- (f) Whether planned tactics can be effectively deployed.
- (g) The availability of defensive weapons, control devices, and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.

In the case of a barricaded or trapped suspect, with no hostages and no immediate threat to others, officers should consider covering escape routes and evacuating persons as appropriate while summoning and waiting for additional assistance (e.g., special tactics and/or hostage negotiation team response).

Immigration Violations

508.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the San Benito County Probation Department relating to immigration and interacting with federal immigration officials.

508.1.1 DEFINITIONS

The following definition applies to this policy (Government Code § 7284.4):

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.

508.2 POLICY

It is the policy of the San Benito County Probation Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

508.3 VICTIMS AND WITNESSES

To encourage cooperation, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of the San Benito County Probation Department 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.

508.4 IMMIGRATION STATUS AND DETENTIONS

Immigration status may be reported to the court as required. Any reasonably discovered change in the immigration status of any client or any discrepancy in the record about the person's immigration status should be documented and reported to the court.

No individual should be detained solely for the purpose of waiting for information from immigration officials (Government Code § 7284.6).

508.4.1 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

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508.4.2 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).

Additionally, 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).

508.4.3 CALIFORNIA DEPARTMENT OF MOTOR VEHICLES

Members shall not obtain, access, use, or disclose noncriminal history information maintained by the Department of Motor Vehicles for immigration enforcement (Vehicle Code § 1808.48).

508.5 FEDERAL REQUEST FOR ASSISTANCE

Requests by federal immigration officials for assistance from this department should be directed to the Chief Probation Officer or designee. The Chief or designee is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

508.6 INFORMATION SHARING

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

- (a) Sending information to or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in department 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.

508.7 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 appropriate prosecutor or the appropriate law enforcement agency.

508.8 TRAINING

The Training Manager should ensure officers receive immigration training on this policy. Training should include prohibitions contained in the California Values Act (Government Code § 7284 et seq.).

Field Training

509.1 PURPOSE AND SCOPE

This policy provides guidelines for field training that ensure standardized training and evaluation; facilitate the transition from the training setting to the actual performance of general duties; and introduce the policies, procedures, and operations of the San Benito County Probation Department. The policy addresses the administration of field training and the selection, supervision, training, and responsibilities of the Field Training Officer (FTO).

509.2 POLICY

It is the policy of the San Benito County Probation Department that all newly hired or appointed officer trainees will participate in field training that is staffed and supervised by trained and qualified FTOs.

509.3 FIELD TRAINING

The Department should establish minimum standards for field training, which should be of sufficient duration to prepare officer trainees for probation duties. The field training is designed to prepare trainees for a probation supervision assignment and ensure they acquire the skills needed to operate in a safe, productive, and professional manner, in accordance with the general duties of this department.

To the extent practicable, field training should include procedures for:

- (a) Issuing training materials to each trainee at the beginning of each trainee's field training.
- (b) Evaluation and documentation of the trainee's performance at the end of each phase of training.
- (c) A multiphase structure that includes:
 1. A formal evaluation progress report completed by the FTOs involved with the trainee and submitted to the trainee's supervisor.
 2. Assignment of the trainee to a variety of shifts and supervision tasks.
 3. Assignment of the trainee to a rotation of FTOs to provide for an objective evaluation of the trainee's performance.
- (d) The trainee's confidential evaluation of the assigned FTOs and the field training process.
- (e) Retention of all field training documentation in the officer trainee's training file, including:
 1. All performance evaluations.
 2. A certificate of completion certifying that the trainee has successfully completed the required number of field training hours.

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509.4 FTO COORDINATOR

The Chief Probation Officer shall delegate certain responsibilities to the FTO coordinator.

The FTO coordinator may appoint a senior FTO or other designee to assist in the coordination of FTOs and their activities.

The responsibilities of the coordinator include but are not limited to:

- (a) Assigning trainees to FTOs.
- (b) Conducting FTO meetings.
- (c) Maintaining and ensuring FTO and trainee performance evaluations are completed.
- (d) Maintaining, updating, and issuing department training materials to each FTO and trainee.
- (e) Developing ongoing training for FTOs.
- (f) Mentoring and supervising individual FTO performance.
- (g) Monitoring the overall performance of field training.
- (h) Keeping the Chief Probation Officer informed through monthly evaluation reports or verbal updates about the trainees' progress.
- (i) Maintaining a liaison with FTO coordinators from other probation agencies.
- (j) Performing other activities as may be directed by the Chief Probation Officer.

Within one year of appointment to this position, the FTO coordinator will be required to successfully complete a training course approved by this department that is applicable to supervision of field training.

509.5 FTO SELECTION, TRAINING, AND RESPONSIBILITIES

509.5.1 SELECTION PROCESS

The selection of an FTO will be at the discretion of the Chief Probation Officer or the authorized designee. Selection should be based on the officer's:

- (a) Desire to be an FTO.
- (b) Experience, which should include a minimum of four years of field supervision, two of which shall be with this department.
- (c) Demonstrated ability as a positive role model.
- (d) Successful completion of an internal oral interview process.
- (e) Evaluation by supervisors and current FTOs.
- (f) Possession of, or ability to obtain, approved certification.

An FTO must remain in good standing and may be relieved from FTO duties due to discipline, inappropriate conduct, or poor performance.

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509.5.2 TRAINING

An officer selected as an FTO shall successfully complete the department-approved training prior to being assigned as an FTO.

All FTOs should complete an update course approved by this department at least every three years while assigned to the position of FTO.

509.5.3 TRAINING MATERIALS

The FTO shall receive training materials outlining the requirements, expectations, and objectives of the FTO position. FTOs should refer to their training materials or the FTO coordinator regarding specific questions related to FTO or field training.

509.5.4 RESPONSIBILITIES

The responsibilities of the FTO include but are not limited to:

- (a) Issuing trainee field training materials to the assigned trainee in accordance with the Training Policy.
 1. The FTO should ensure that the trainee has the opportunity to become knowledgeable of the subject matter and proficient with the skills as set forth in the training materials.
 2. The FTO shall sign off on all completed topics contained in the training materials, noting the methods of learning and evaluating the performance of the assigned trainee.
- (b) Completing and reviewing daily performance evaluations with the trainee.
- (c) Completing and submitting a written evaluation on the performance of the assigned trainee to the FTO coordinator on each training day.
- (d) Completing a detailed weekly performance evaluation of the assigned trainee at the end of each week.
- (e) Completing a monthly evaluation report of the assigned trainee at the end of each month.
- (f) Providing the shift supervisor with a verbal synopsis of the trainee's activities at the end of each day or during any unusual occurrence needing guidance or clarification.

Mobile Data Terminal Use

510.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the proper access, use, and application of the Mobile Data Terminal (MDT) system in order to ensure proper access to confidential records from local, state, and national law enforcement databases, and to ensure effective electronic communications between department members and the dispatcher.

510.2 POLICY

San Benito County Probation Department members using the MDT shall comply with all appropriate federal and state rules and regulations and shall use the MDT in a professional manner, in accordance with this policy.

510.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to messages accessed, transmitted, received, or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

510.4 RESTRICTED ACCESS AND USE

MDT use is subject to the Information Technology Use and Protected Information policies.

Members shall not access the MDT system if they have not received prior authorization and the required training. Members shall immediately report unauthorized access or use of the MDT by another member to their supervisors.

Use of the MDT system to access law enforcement databases or transmit messages is restricted to official activities, business-related tasks, or communications that are directly related to the business, administration, or practices of the Department. In the event that a member has questions about sending a particular message or accessing a particular database, the member should seek prior approval.

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

It is a violation of this policy to transmit a message or access a law enforcement database under another member's name or to use the password of another member to log in to the MDT system unless directed to do so by a supervisor. Members are required to log off the MDT or secure the MDT when it is unattended. This added security measure will minimize the potential for unauthorized access or misuse.

510.4.1 USE WHILE DRIVING

Use of the MDT by the vehicle operator should be limited to times when the vehicle is stopped. Information that is required for immediate enforcement, investigative, tactical, or safety needs should be transmitted over the radio.

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In no case shall an operator attempt to send or review lengthy messages while the vehicle is in motion.

510.5 EQUIPMENT CONSIDERATIONS

510.5.1 MALFUNCTIONING MDT

Whenever possible, members will not use vehicles with malfunctioning MDTs. Whenever members must drive a vehicle in which the MDT is not working, they shall notify the supervisor. It shall be the responsibility of the supervisor or the authorized designee to document all information that will then be transmitted verbally over the department radio.

Public Recording of Probation Officer Activity

511.1 PURPOSE AND SCOPE

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

511.2 POLICY

The San Benito County Probation Department recognizes the right of persons to lawfully record members of this department who are performing their official duties. Members of this department will not prohibit or intentionally interfere with such lawful recordings. Any recordings that are deemed to be evidence of a crime or relevant to an investigation will only be collected or seized lawfully by local law enforcement having jurisdiction.

Officers should exercise restraint and should not resort to seeking 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.

511.3 RECORDING PROBATION OFFICER ACTIVITY

Members of the public who wish to record probation officer 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.
- (b) Beyond the act of photographing or recording, individuals may not interfere with probation officer 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 officers.
 - 4. Being so close to the activity as to interfere with an officer's effective communication with a client or other individual.
- (c) The individual may not present an undue safety risk to self, to the officer, or to others.

511.4 OFFICER RESPONSE

Officers 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, officers should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Whenever practicable, officers 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

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individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing individuals to clear the area, an officer could advise individuals they 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 probation officer activity, officers shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

511.5 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 officer 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 practicable, 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 constitutional and consistent with this policy and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of department members, such as how and where to file a complaint.

511.6 SEIZING RECORDINGS AS EVIDENCE

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

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

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

Medical Aid and Response

512.1 PURPOSE AND SCOPE

This policy recognizes that members may encounter persons in need of medical aid and establishes an appropriate response to such situations.

512.2 POLICY

It is the policy of the San Benito County Probation Department that all officers and other designated members be trained to provide emergency medical aid.

512.3 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 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 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.

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512.4 TRANSPORTING ILL AND INJURED PERSONS

Except in exceptional 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.

Officers should search any person who is in custody before releasing that person to EMS for transport.

Members should not provide emergency escort for medical transport or civilian vehicles.

512.5 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 officer shall not force that person to receive medical care or be transported.

However, members may assist EMS personnel when EMS personnel determine the person lacks the 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 officer should consider proceeding with a 72-hour treatment and evaluation commitment (5150 commitment) process in accordance with the Civil Commitments Policy.

If an officer believes that a person who is in custody requires EMS care and the person refuses, the officer should encourage the person to receive medical treatment. The officer 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 still refuses, the officer will require the person to be transported to the nearest medical facility. In such cases, the officer should consult with a supervisor prior to the transport.

Members shall not sign refusal-for-treatment forms or forms accepting financial responsibility for treatment.

512.5.1 SICK OR INJURED ARRESTEE

If an arrestee appears ill or injured, or claims illness or injury, the arrestee should be medically cleared prior to booking. If the officer has reason to believe the arrestee is feigning injury or illness, they 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 officer 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.

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512.6 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 Conducted Energy Device policies.

Task Force

513.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members when participating in task force (TF) operations.

513.2 POLICY

It is the policy of the San Benito County Probation Department to improve public safety and reduce violent crime through proactive collaboration with law enforcement task forces.

513.3 AGENCY INVOLVEMENT

Participation in TF operations provides access to multi-jurisdictional resources for apprehending clients who have absconded from supervision or who have otherwise violated the law and/or supervision conditions.

Department participation in TF operations is subject to the approval of the Chief Probation Officer or the authorized designee.

513.3.1 REQUESTS FOR AGENCY INVOLVEMENT

Initial requests for participation in a TF or TF operation should be routed to the Chief Probation Officer for approval. In some instances, a memorandum of understanding (MOU) or other established protocol may exist that eliminates the need for approval of individual requests.

513.3.2 OFFICER OPERATIONAL ACTIVITY

Officers involved in TF operations should confirm the existence of, time period of coverage, and prior Chief Probation Officer approval for any MOU or established protocol prior to engaging in TF operational activity.

When engaged in TF operational activity or when rendering assistance pursuant to a TF agreement, officers must conform to applicable laws and the policies of this department unless previously approved by the Chief Probation Officer.

Requests for emergency assistance unrelated to TF operations and enforcement action taken outside the jurisdiction of the department unrelated to TF operations are governed by the Outside Agency Assistance and Probation Authority policies.

513.4 TEMPORARY DETENTION AND TRANSPORT

TF operation arrestees should only be temporarily detained and/or transported by this department pursuant to the Transporting Persons in Custody Policy unless previously approved by the Chief Probation Officer.

513.5 REPORTING REQUIREMENTS

Original reports of investigations, evidence seized, and other materials generated or collected by the TF operation should be retained by the agency responsible for the case. However, evidence may be turned over to other law enforcement agencies as appropriate pursuant to the Property

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Policy. Copies of investigative reports and other materials may be provided to other agencies in accordance with applicable laws, TF rules, and Records Maintenance and Release Policy.

513.6 MANDATORY SHARING AND TRAINING

When equipment and/or supplies maintained by the department have been purchased with federal funds or grants and are subject to agency sharing requirements, the Chief Probation Officer or authorized designee should regularly document:

- (a) The conditions relative to sharing.
- (b) The training requirements for:
 - 1. The use of the equipment and supplies.
 - 2. The members trained in the use of the equipment and supplies.
- (c) Any other requirements in the use of the equipment and supplies.

Copies of this documentation should be maintained by the Chief Probation Officer or authorized designee.

The Training Manager should maintain documentation that the appropriate members have received the required training.

513.7 NEWS MEDIA

Media inquiries should be referred to the Task Force Coordinator of the agency responsible for coordinating the activities of the TF.

Operations Planning and Deconfliction

514.1 PURPOSE AND SCOPE

This policy provides guidelines for planning, deconfliction, and execution of high-risk operations.

514.1.1 DEFINITIONS

Definitions related to this policy include:

High-risk operations - Operations, including service of search and arrest warrants, that are likely to present higher risks than are commonly faced by officers 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.

514.2 POLICY

It is the policy of the San Benito County Probation Department 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.

514.3 OPERATIONS DIRECTOR

The Chief Probation Officer will designate a member of this department 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 an incident qualifies as a high-risk operation. The Operations Director will also have the responsibility for coordinating operations that are categorized as high risk.

514.4 RISK ASSESSMENT

514.4.1 RISK ASSESSMENT FORM PREPARATION

Officers 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 officer should query all relevant and reasonably available intelligence resources for information about the subject or others who may be present at 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 officer should also submit information to these resources.

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

- (a) Photographs, including aerial photographs, of the involved location, neighboring yards, and obstacles.

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- (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 law enforcement, 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 officers and others (e.g., making an off-site arrest).

514.4.2 RISK ASSESSMENT REVIEW

Officers will present the risk assessment form and other relevant documents (such as copies of search warrants, 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.

514.4.3 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:
 1. Monterey County Sheriff's Special Weapons and Tactics Team (Monterey County Sheriff's Special Weapons and Tactics Team)
 2. Additional personnel
 3. Outside agency assistance, including local law enforcement
 4. Special equipment
 5. Medical personnel
 6. Persons trained in negotiation
 7. Additional surveillance
 8. Canines

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9. Evidence Clerk or analytical personnel to assist with cataloging seizures
 10. Forensic specialists
 11. Specialized mapping for larger or complex locations
- (b) Contact the appropriate department members or other agencies as warranted to begin preparation.
 - (c) Ensure that all legal documents such as search warrants are complete and have any modifications reasonably necessary to support the operation.
 - (d) Coordinate the actual operation.

514.5 DECONFLICTION

Deconfliction systems are designed to identify persons and locations associated with investigations or probation 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 officer 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 officer should also enter relevant updated information when it is received.

If any conflict is discovered, the supervisor will contact the involved jurisdiction and resolve the potential conflict before proceeding.

514.6 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, 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.

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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 officers should be included in the operation team to provide reasonable notice of a legitimate probation operation.
 2. How all participants will be identified as probation.
- (e) Whether deconfliction resources (e.g., databases, human intelligence, written reports) 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 Mandatory Reporting and Child and Dependent Adult Safety policies.
- (k) Communications plan.
- (l) Responsibilities for writing, collecting, reviewing, and approving reports.

514.6.1 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.

514.7 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 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.

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- (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 probation officers.
 - 1. Exceptions may be made by the Operations Director for officers who are conducting surveillance or working undercover. 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 NETCOM is notified of the time and location of the operation, and to provide a copy of the operations plan prior to officers arriving at the location.
 - 2. If the radio channel needs to be monitored by NETCOM, the dispatcher assigned to monitor the operation should attend the briefing, if practicable, but at a minimum should receive a copy of the operations 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.

514.8 MONTEREY COUNTY SHERIFF'S SPECIAL WEAPONS AND TACTICS TEAM PARTICIPATION

If the Operations Director determines that Monterey County Sheriff's Special Weapons and Tactics Team participation is appropriate, the director and the Monterey County Sheriff's Special Weapons and Tactics Team supervisor shall work together to develop a written plan. The Monterey County Sheriff's Special Weapons and Tactics Team 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 Monterey County Sheriff's Special Weapons and Tactics Team supervisor shall transfer control of the scene to the handling supervisor. This transfer should be communicated to the officers present.

514.9 MEDIA ACCESS

No advance information regarding planned operations shall be released without the approval of the Chief Probation Officer. Any media inquiries or press release after the fact shall be handled in accordance with the Media Relations Policy.

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514.10 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 Monterey County Sheriff's Special Weapons and Tactics Team debriefing.

514.11 TRAINING

The Training Manager should ensure officers and Monterey County Sheriff's Special Weapons and Tactics Team members who participate in operations subject to this policy receive periodic training, including but not limited to topics such as legal issues, deconfliction practices, operations planning concepts, and reporting requirements.

Transporting Persons in Custody

515.1 PURPOSE AND SCOPE

This policy provides guidelines for transporting persons who are in the custody of the San Benito County Probation Department.

Additional guidance can be found in the Medical Aid and Response Policy.

515.2 POLICY

It is the policy of the San Benito County Probation Department to make reasonable efforts to protect the safety of persons in custody while they are being transported.

515.3 AGENCY HEAD RESPONSIBILITIES

The Chief Probation Officer or authorized designee is responsible for reviewing the safety and restraint systems for all vehicles used to transport persons in custody. The review shall ensure the restraint systems comply with the law and shall determine whether they reasonably meet the needs of the Department. Safety systems should allow for transporting members to be in constant and reasonably clear audio contact with each person being transported.

The Chief Probation Officer or authorized designee should establish related procedures for safely transporting persons in custody who have their legs restrained in some manner other than leg shackles.

515.4 TRANSPORTING MEMBER RESPONSIBILITIES

Members transporting a person in custody in a department vehicle should ensure:

- (a) All areas of the vehicle accessible to a person in custody are searched before and after each transport.
- (b) All persons in custody are searched prior to a transport.
- (c) All persons are properly restrained in the vehicle's safety restraint system in a seated position.
- (d) Any person behaving in a manner so violent or uncooperative that the person cannot or will not sit upright is considered as possibly being in need of medical aid, see the Medical Aid and Response Policy.
- (e) A verbal welfare check is made with a person in custody every 10 minutes or less.
- (f) Transport is accomplished in a direct and timely manner.
- (g) The same consideration is shown to a person in custody as would be reasonably shown to any other passenger during transport (e.g., avoiding loud or objectionable music, rough rides, excessive heat or cold).
- (h) Persons suspected of having a communicable disease are transported in compliance with the exposure control plan.

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- (i) Persons in custody are transported individually when practical, or within their own compartment of a multiple-compartment vehicle, unless supervisor approval is received based on unusual circumstances.
- (j) Persons in custody should not be transported in vehicles without safety barriers.
- (k) NETCOM is advised of:
 - 1. The time when a transport begins.
 - 2. The time and reason for any stops.
 - 3. The time of arrival at the destination.
 - 4. Provide the vehicle's mileage to NETCOM when:
 - (a) a solo male officer is transporting a female person in custody, or
 - (b) a solo female officer is transporting a male person in custody.
- (l) Reasonable efforts are made to prevent inappropriate conversations between persons being transported (e.g., demeaning or insulting language) or conversations between a person being transported and someone outside the vehicle.
- (m) Sufficient visual observation and communication is maintained to determine whether a person is experiencing any stress or trauma during the transport of:
 - 1. Persons who were placed in any restraints beyond just handcuffs due to their violent or uncooperative behavior (see the Handcuffing and Restraints Policy).
 - 2. Persons wearing a spit hood.
 - 3. Persons who are a suspected suicide risk.
 - 4. Persons who are ill or injured.

515.5 PROHIBITIONS

Transporting members should not:

- (a) Transport juveniles with adults.
- (b) Transport females with males. When possible, transgender or intersex persons should be transported with persons of the gender they identify with if circumstances do not allow for single transport.
- (c) Transport persons with known hostilities toward each other together, such as mutual combatants or rival gang members.
- (d) Leave the vehicle unattended with a person in custody inside.
- (e) Leave a vehicle with its keys or an unsecured weapon inside with a person in custody in the vehicle.
- (f) Handcuff a person to any part of a vehicle.
- (g) Place a person in custody in an unreasonable risk of harm (e.g., engaging in a pursuit, responding to a high-risk incident).

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- (h) Allow any person who is not in custody (i.e., friends, family) to have contact with or be in close proximity to the person in custody.
- (i) Allow any food, drink, or other consumables to be given to the person in custody by anyone other than department personnel or receiving agency personnel.

515.6 SPECIFIC TRANSPORTATION ISSUES

515.6.1 TRANSPORTING PERSONS WITH DISABILITIES

When transporting a person with a disability, a transporting member should request assistance as necessary to transport the person in a reasonable and safe manner. The transporting member should ensure that any special equipment (e.g., canes, wheelchairs, prosthetics) is transported in such a manner that it not be damaged or pose a security threat.

515.6.2 TRANSPORTING ILL OR INJURED PERSONS

See the Medical Aid and Response Policy.

515.6.3 DELIVERING A PERSON IN CUSTODY TO A FACILITY

Members delivering persons to other facilities (e.g., hospital, other agency, court, jail) should:

- (a) Secure weapons in a manner mandated by the facility or in a manner that is appropriate for the facility.
- (b) Remove restraints in coordination with facility personnel.
- (c) Deliver the appropriate documentation concerning the person to facility personnel.
- (d) Notify the receiving facility of any known medical or safety issues, including whether restraints beyond handcuffs were applied due to the person's violent or uncooperative behavior.

515.6.4 LONG-DISTANCE TRANSPORTS

Absent exigent circumstances, members should only stop during long-distance transports for:

- Fuel
- Meals
- Restroom breaks

Where practicable, time-stamped receipts for purchases should be retained and all stops should be logged in a manner that includes the following:

- The time when a transport begins and the vehicle's mileage
- The time, vehicle's mileage, and reason for any stops
- The time of arrival at the destination and the vehicle's mileage

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515.6.5 TRANSPORT VAN

A member trained on the safety and restraint systems of a transport van should be present during its use for transporting a person in custody. Training regarding the use of the van's safety and restraint systems shall be followed.

A member should assist persons getting into and out of the transport van to avoid falls.

515.7 TRAINING

The Training Manager should ensure that members receive training on proper procedures for transporting persons in custody.

Portable Audio/Video Recorders

516.1 PURPOSE AND SCOPE

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

This policy does not apply to mobile audio/video recordings, interviews or interrogations conducted at any San Benito County Probation Department facility, authorized undercover operations, wiretaps, or eavesdropping (concealed listening devices).

516.2 POLICY

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

516.3 COORDINATOR

The Chief Probation Officer or the authorized designee should designate a coordinator responsible for (Penal Code § 832.18):

- (a) Establishing a system for downloading, storing, and security of recordings.
- (b) Designating persons responsible for downloading recorded data.
- (c) Establishing a maintenance system to ensure availability of operable portable audio/video recording devices.
- (d) Establishing a system for tagging and categorizing data according to the type of incident captured.
- (e) Establishing a system to prevent tampering, deleting, and copying of recordings, and ensure chain of custody integrity.
- (f) Working with counsel to ensure an appropriate retention schedule is being applied to recordings and associated documentation.
- (g) Maintaining logs of access and deletions of recordings.

516.4 MEMBER PRIVACY EXPECTATION

All recordings made by members on any department-issued device at any time, and any recording made while acting in an official capacity of this department, regardless of ownership of the device it was made on, shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

516.5 MEMBER RESPONSIBILITIES

Prior to going into service, each uniformed member will be responsible for making sure the member is equipped with a portable recorder issued by the Department and that the recorder

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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 a supervisor and obtain a functioning device as soon as reasonably practicable. Uniformed members should wear the recorder in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Any member assigned to a non-uniformed position may carry an approved portable recorder at any time the member believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed members should wear the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

When using a recorder, the assigned member shall record the member's name, San Benito County Probation Department identification number, and the current date and time at the beginning and the end of the shift or other period of use, regardless of whether any activity was recorded. This procedure is not required when the recording device and related software captures the user's unique identification and the date and time of each recording.

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.

516.5.1 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 shooting or death, or other serious incident and ensure the data is downloaded (Penal Code § 832.18).

516.6 ACTIVATION OF THE AUDIO/VIDEO RECORDER

This policy is not intended to describe every possible situation in which the 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 recorder should be activated in any of the following situations:

- (a) All field supervision and investigative contacts, including stops and field interview situations
- (b) Self-initiated activity in which an officer would normally notify a dispatcher
- (c) 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

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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 the member's 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.

516.6.1 CESSATION OF RECORDING

Once activated, the portable recorder should remain on continuously until the member reasonably believes the member's 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 adviser, or physician unless there is explicit consent from all parties to the conversation (Penal Code § 636).

516.6.2 SURREPTITIOUS USE OF THE AUDIO/VIDEO RECORDER

California law prohibits any individual from surreptitiously recording any conversation in which any party to the conversation has a reasonable belief that the conversation is private or confidential. However, California law exempts officers from this prohibition during the course of a criminal investigation under the direction of the prosecuting attorney or investigating member of the local law enforcement agency as set forth in Penal Code § 633. Nothing in this section is intended to interfere with an officer's right to openly record any interrogation.

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief Probation Officer or the authorized designee.

516.6.3 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.

516.7 PROHIBITED USE OF PORTABLE RECORDERS

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

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

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

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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.

516.8 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 nondisclosure.
- (c) A complainant, victim, or witness has not requested nondisclosure 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.

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.

516.9 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 officer
- (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 officer or the San Benito County Probation Department

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).

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516.9.1 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.

516.10 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 a member's performance.

Recorded files may also be reviewed:

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

All recordings should be reviewed by the Assistant Chief Probation Officer 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.

Chapter 6 - Equipment

Department-Owned and Personal Property

600.1 PURPOSE AND SCOPE

This policy addresses the care of department-owned property and the role of the Department when personal property, the property of another person or entity, or department-owned property is damaged or lost.

600.2 POLICY

The San Benito County Probation Department will ensure that members are issued appropriate property and equipment necessary for the member's job function. The Department will take steps to minimize the cost associated with maintaining department property, including personal property authorized for use in the member's duties.

600.3 DEPARTMENT/AGENCY-ISSUED PROPERTY

The Chief Probation Officer or the designee should document all property and equipment issued by the Department in the appropriate file at the time of issuance. Receipt of issued items shall be acknowledged by the receiving member's signature. Upon separation from the Department, all issued property and equipment shall be returned. Documentation of the return shall be acknowledged by the signature of a supervisor.

600.3.1 MEMBER RESPONSIBILITIES

Members shall be responsible for the safekeeping, serviceable condition, proper care, proper use, and replacement of department property that has been assigned or entrusted to them.

- (a) Members shall promptly report, through their chain of command, any loss, damage to, or unserviceable condition of any department-issued property or equipment.
- (b) The use of damaged or unserviceable property should be discontinued as soon as practicable, and the item replaced with a comparable item as soon as available.
- (c) Except when otherwise directed by a supervisor or when exigent circumstances exist, department-issued 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) Department-issued property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without prior approval.
- (e) Members should obtain a supervisor's approval before any attempt to repair damaged or unserviceable property, unless the repair is of a minor or temporary nature.

600.4 PERSONAL PROPERTY

Carrying and/or using personal property or equipment on-duty requires prior written approval by the Chief Probation Officer or appropriate Supervisor. The member should submit a request that includes a description of the property and the reason and length of time it will be used. Personal property of the type routinely carried by persons who are not performing law enforcement duties, and that is not a weapon, is excluded from this requirement.

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The Department will not replace or repair items (e.g., jewelry, expensive watches) that are not reasonably required as part of work.

600.4.1 FILING CLAIMS FOR PERSONAL PROPERTY

A member requesting reimbursement for damage to, or loss of, personal property must submit the request in writing to the member's immediate supervisor. The supervisor may require a separate written report.

Upon review by the Supervisor and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief Probation Officer, who will then forward the claim to the County department responsible for issuing payments.

600.5 SUPERVISOR RESPONSIBILITIES

The supervisor receiving a report that property, including personal property authorized for use, has been damaged should conduct an investigation and direct a memo to the appropriate Supervisor. The memo should include the result of the investigation and whether reasonable care was taken to prevent the loss, damage, or unserviceable condition.

Cases where the supervisor has reason to believe that misconduct or negligence was involved in the loss, damage, or unserviceable condition of property should be handled in accordance with the Standards of Conduct and Personnel Complaints policies.

600.6 DAMAGE TO PROPERTY OF ANOTHER PERSON OR ENTITY

A member who intentionally or unintentionally damages or causes to be damaged the real or personal property of another person or entity while performing any probation function shall promptly report the damage through the chain of command.

600.6.1 DAMAGE BY PERSONNEL OF ANOTHER AGENCY

Personnel from another agency may intentionally or unintentionally cause damage to the real or personal property of the San Benito County Probation Department or of another person while performing their duties within the jurisdiction of this department. The department member present or the member responsible for the property is responsible to report the damage as follows:

- (a) A verbal report shall be made to the member's immediate supervisor as soon as circumstances permit.
- (b) A written report shall be submitted before the member goes off-duty or as otherwise directed by the supervisor.

Personal Communication Devices

601.1 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 Department or personally owned, while on-duty or when used for authorized work-related purposes.

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

601.2 POLICY

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

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the member and the member's PCD records to civil or criminal discovery or disclosure under the California Public Records Act (CPRA) (Government Code § 7920.000 et seq.).

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory staff.

601.3 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 Department 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).

601.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT

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

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601.4 DEPARTMENT/AGENCY-ISSUED PCD

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue or fund a PCD for the member's use to facilitate on-duty performance. Department-issued or funded PCDs may not be used for personal business either on- or off-duty unless authorized by the Chief Probation Officer or the authorized designee. Such devices and the associated telephone number, if any, shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless a member is expressly authorized by the Chief Probation Officer or the authorized designee for off-duty use of the PCD, the PCD will be either secured in the workplace at the completion of the tour of duty or turned off when leaving the workplace.

601.5 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 Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) The PCD and any associated services shall be purchased, used, and maintained solely at the member's expense.
- (d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of department communications). Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace and have no expectation of privacy regarding any department business-related communication.
 - 1. Members may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief Probation Officer.
- (e) The device shall not be utilized to record or disclose any department 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 or appointment with the Department, without the express authorization of the Chief Probation Officer or the authorized designee.
- (f) Use of a personally owned PCD while at work or for work-related business constitutes consent for the Department to access the PCD to inspect and copy data to meet the needs of the Department, which may include litigation, CPRA retention and release obligations, and internal investigations. If the PCD is carried on-duty, members will provide the Department with the telephone number of the device.
- (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 San Benito County Probation Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

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Except with prior express authorization from their supervisors, 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 collective bargaining agreements, or if the member has prior express authorization from a supervisor, the member may engage in department 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 department-related business activities in any manner shall promptly provide the Department with a copy of such records to ensure accurate record keeping.

601.6 USE OF PCD

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

- (a) A PCD shall not be carried in a manner that allows it to be visible while in uniform, unless it is in an approved carrier.
- (b) All PCDs in the workplace shall 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 recorded media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief Probation Officer or the authorized designee, may result in discipline.
- (f) Members will not access social networking sites for any purpose that is not official department 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.

601.7 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.

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- (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.
 - 2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief Probation Officer or the authorized designee.

601.8 OFFICIAL USE

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while using 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 department communications network.

601.9 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. Officers 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.

Except in an emergency, members who are operating department 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. Hands-free use should be restricted to business-related calls or calls of an urgent nature (Vehicle Code § 23123; Vehicle Code § 23123.5).

Vehicle Use, Safety, and Maintenance

602.1 PURPOSE AND SCOPE

The Department uses department-owned motor vehicles for a variety of applications. To maintain a system of accountability and ensure that department-owned vehicles are used and maintained appropriately, regulations relating to the use and maintenance of these vehicles have been established. The term department-owned as used in this section also refers to any vehicle leased or rented by the Department.

602.2 POLICY

It is the policy of this department to maintain and operate the vehicles assigned to this facility in a lawful and safe manner. The San Benito County Probation Department provides vehicles for official business use and may assign take-home vehicles based on its determination of operational efficiency, economic impact to the Department, tactical deployments, and other considerations. The department will provide service for department vehicles to ensure they remain operational and maintain their appearance, as resources allow.

602.3 USE OF DEPARTMENT VEHICLES

Only authorized members should operate department-owned vehicles. Members who operate department-owned vehicles must comply with all applicable state laws and must possess a valid driver's license endorsed for the type of vehicle operated.

Additionally, members are responsible for helping maintain department vehicles so they are properly equipped, maintained, refueled, and cleaned.

A list of members authorized to drive department-owned vehicles shall be maintained by the department supervisor in charge of vehicle maintenance. The list shall be updated monthly to ensure that only qualified personnel with a current and appropriately endorsed driver's license are on the list.

602.3.1 VEHICLE LOCATION SYSTEM

At the discretion of the Chief Probation Officer, vehicles may be equipped with a system to track the vehicle's location. While the system may provide vehicle location and other information, members are not relieved of their responsibility to use required communication practices to report their location and status.

Members shall not make any unauthorized modifications to the vehicle location system. When members check out a vehicle, they shall verify that the system is on and report any malfunctions to their supervisor. If the member finds that the system is not functioning properly at any time during a shift, the member should exchange the vehicle for one with a working system, if available.

System data may be accessed by supervisors. However, access to historical data by individuals other than supervisors will require supervisor approval.

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All data captured by the system shall be retained in accordance with the established records retention schedule.

602.3.2 KEYS

Members approved to operate a marked vehicle should be issued a copy of the keys as part of their initial equipment distribution. Members who are assigned a specific vehicle should be issued keys for that vehicle.

Members shall not duplicate keys. The loss of keys shall be promptly reported in writing through the member's chain of command.

Under no circumstances will clients be allowed to operate a vehicle or possess any vehicle keys.

602.3.3 AUTHORIZED PASSENGERS

Members operating department vehicles shall not permit persons other than County personnel or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as passengers in the vehicle, except as stated in the Ride-Alongs Policy.

602.3.4 ALCOHOL

Members who have consumed alcohol are prohibited from operating any department vehicle. Regardless of assignment, members may not violate state law regarding vehicle operation while intoxicated.

602.3.5 PARKING

Except when responding to an emergency or when urgent department-related business requires otherwise, members driving department vehicles should obey all parking regulations at all times.

Department vehicles should be parked in assigned stalls. Members shall not park privately owned vehicles in stalls assigned to department vehicles or in other areas of the parking lot that are not so designated unless authorized by a supervisor. Privately owned motorcycles shall be parked in designated areas.

602.3.6 ACCESSORIES AND/OR MODIFICATIONS

There shall be no modifications, additions, or removal of any equipment or accessories without written permission from the Chief Probation Officer or authorized designee.

602.3.7 MEMBER USE

Members using department-owned vehicles shall ensure that all weapons have been removed from a vehicle before going into service.

602.4 VEHICLE SECURITY

Department vehicles will be locked, and the keys will be secured when not in use. No keys should be left in the vehicle except when it is necessary to keep the vehicle running (e.g., equipment charging). Officers 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.

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Members will make every effort to ensure that department vehicles are parked in a secure location. Members shall ensure all weapons and control devices are secured while a vehicle is unattended.

602.4.1 REMOVAL OF WEAPONS

All firearms, weapons, and control devices shall be removed from a vehicle and properly secured in the department armory or designated storage area before releasing the vehicle for maintenance, service, or repair.

602.5 INDIVIDUAL MEMBER ASSIGNMENT TO VEHICLES

Department-owned vehicles may be assigned to individual members at the discretion of the Chief Probation Officer or the authorized designee. Vehicles may be assigned for on-duty and/or take-home use. Assigned vehicles may be changed at any time. Permission to take home a vehicle may be withdrawn at any time.

The assignment of vehicles may be suspended when the member is unable to perform the member's regular assignment.

602.5.1 ON-DUTY USE

Vehicle assignments shall be based on the nature of the member's duties, job description, essential functions, and employment or appointment status. Vehicles may be reassigned or used by other department members at the discretion of the Chief Probation Officer or the authorized designee.

602.5.2 UNSCHEDULED TAKE-HOME USE

Circumstances may arise where members must use department-owned vehicles to commute to and from a work assignment. Members may take home department-owned 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 Department.
- (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 County limits.
- (d) Off-street parking will be available at the member's residence.
- (e) The vehicle 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.

602.5.3 ASSIGNED VEHICLES

Assignment of take-home 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 the member's employment or appointment status. Residence in County is a prime consideration for assignment of a take-home vehicle. Members who reside outside the County may be required to secure the

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vehicle at a designated location or at the Department at the discretion of the Chief Probation Officer or the authorized designee.

Department members shall sign a take-home vehicle agreement that outlines certain standards, including but not limited to how the vehicle shall be used, where it shall be parked when the member is not on-duty, vehicle maintenance responsibilities, and member enforcement actions.

Members are cautioned that under federal and local tax rules, personal use of a County vehicle may create an income tax liability for the member. Questions regarding tax rules should be directed to the member's tax adviser.

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 personal transportation, unless special circumstances exist and the Chief Probation Officer or the authorized designee 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:
 - 1. In circumstances when a member has been placed on-call by the Chief Probation Officer or the authorized designee and there is a high probability that the member will be called back to duty.
 - 2. When the member is performing a work-related function during what normally would be an off-duty period, including vehicle maintenance or traveling to or from a work-related activity or function.
 - 3. When the member has received permission from the Chief Probation Officer or the authorized designee.
 - 4. When the vehicle is being used by the Chief Probation Officer or the authorized designee or members who are in on-call administrative positions.
 - 5. When the vehicle is being used by on-call investigators.
- (d) 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.
- (e) The two-way communications radio and global positioning satellite device, if equipped, must be on and set to an audible volume when the vehicle is in operation.
- (f) Unattended vehicles are to be locked and secured at all times.
 - 1. All department identification, portable radios, and equipment should be secured.
- (g) Vehicles are to be parked off-street at the member's residence unless prior arrangements have been made with the Chief Probation Officer or the authorized designee. If the vehicle is not secured inside a locked garage, all firearms and control devices shall be removed and properly secured in the member's residence (see the Firearms Policy regarding safe storage of firearms at home).

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- (h) Vehicles are to be secured at the member's residence or the appropriate department facility, at the discretion of the Department, when a member will be away (e.g., on vacation) for periods exceeding one week.
 - 1. If the vehicle remains at the member's residence, the Department shall have access to the vehicle.
 - 2. If the member is unable to provide access to the vehicle, it shall be parked at the Department.
- (i) The member is responsible for the care and maintenance of the vehicle.

602.6 VEHICLE 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 Department. 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 inspect their assigned vehicles daily for service/maintenance requirements and damage.
- (b) It is the member's responsibility to ensure the assigned vehicle is maintained according to the established service and maintenance schedule.
- (c) All scheduled vehicle maintenance and car washes shall be performed as necessary at a facility approved by the department member in charge of vehicle maintenance.
- (d) The Department 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 card, explaining the service or repair, and leave it on the seat or dash.

602.6.1 VEHICLE INSPECTIONS

Members shall be responsible for inspecting the interior and exterior of any assigned vehicle before taking the vehicle into service and at the conclusion of their shifts. 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 department 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 client, the transporting member shall search all areas of the vehicle that are accessible by the client before and after that person is transported.

All department-owned vehicles are subject to inspection and/or search at any time by a supervisor. No member assigned to or operating such vehicle may have any expectation of privacy regarding the vehicle or any of its contents, regardless of who owns the contents. At a minimum, supervisors

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shall make monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with this policy.

602.6.2 VEHICLE SAFETY REPAIRS

Anyone authorized to drive department vehicles is responsible for inspecting the interior and exterior of any assigned vehicle before placing the vehicle into service and again at the conclusion of the shift. Any previously unreported damage, mechanical problems, unauthorized contents, or other problems with the vehicle shall be promptly reported to a supervisor and documented.

Vehicles that are deemed unsafe shall not be used until necessary repairs are made. The written request for repairs shall be submitted before the operator checks out a replacement vehicle. The supervisor or the authorized designee shall monitor the maintenance requests and ensure that the necessary repairs are made before the vehicle is placed back into service.

All vehicles owned, leased, or used by this department shall be inspected annually by a qualified individual. Inspection reports will be forwarded to and maintained by the supervisor or the authorized designee.

602.7 TOLL ROAD USAGE

Probation vehicles are not routinely exempt from incurring toll road charges. Members responding to or returning from an emergency call on toll roads while on-duty are exempt from paying the toll if driving an authorized emergency vehicle as provided in Vehicle Code § 23301.5.

Commuting or returning to the Department after an emergency does not qualify for this exemption; members using department-owned vehicles are subject to the toll charge.

To avoid unnecessary toll road violation charges, members shall adhere to the following:

- (a) Members operating department-owned vehicles on toll roads for any reason other than responding to an emergency or urgent call shall pay the appropriate toll charge or use the appropriate tollway transponder. Members may seek reimbursement from the County for any toll fees incurred in the course of official business.
- (b) Members driving department-owned vehicles through a toll plaza while responding to an emergency or urgent call shall notify, in writing, the appropriate Supervisor within five working days explaining the circumstances.

602.8 ATTIRE AND APPEARANCE

When operating any department vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever a member is in public view or has contact with the public, the member's attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Department.

602.9 COLLISION, DAMAGE, ABUSE, AND MISUSE

When any department-owned vehicle is involved in a traffic collision, the involved member shall promptly notify a supervisor. A traffic collision report shall be filed with the agency having jurisdiction. The member shall complete the department's vehicle collision form.

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When a collision involves an department-owned vehicle or when a member of this department is an involved driver in a collision that occurs in this jurisdiction, and the collision results in serious injury or death or potentially involves any criminal charge, an outside agency should be summoned to handle the investigation. If the member is incapable of completing this department's vehicle collision form, a supervisor shall complete the form.

Any damage to a vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered. It shall be documented in memorandum format and forwarded to the appropriate Supervisor. An administrative investigation should be conducted to determine if there is any vehicle abuse or misuse. If it is determined that misuse or abuse was a result of negligent conduct or operation, appropriate disciplinary action may result.

602.10 USE OF PERSONAL VEHICLES

The Chief Probation Officer or the authorized designee must approve use of personal vehicles for official business.

The Chief Probation Officer or the authorized designee shall verify that the personal vehicle meets the state's insurance requirements. A copy of the insurance card shall be retained in the vehicle and in a department file. All policies and procedures applicable to department vehicles shall apply to the personal vehicle while it is being used for official business.

Personal Protective Equipment

603.1

This policy identifies the different types of personal protective equipment (PPE) provided by the Department as well as 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.

603.1.1 DEFINITIONS

Definitions related to this policy include:

Disposable particulate mask - A class of disposable respirators approved by the Food and Drug Administration (FDA) and the National Institute for Occupational Safety and Health (NIOSH) as suitable for use where fluid or particulate resistance is a priority. Examples are N95 and N100 masks.

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 worn by the user to protect from exposure to atmospheres where there is smoke, low levels of oxygen, high levels of carbon monoxide, or 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.

603.2 POLICY

The San Benito County Probation Department endeavors to protect members by supplying certain PPE as provided in this policy.

603.3 OFFICER/AGENT 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 use the procedures in the Illness and Injury Prevention Policy to recommend new or improved PPE or additional needs for PPE.

603.4 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.

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603.5 EYE PROTECTION

Approved eye protection, including side protection, shall be used by members during firearms training, or during situations in which eye protection may be warranted (e.g., cleaning areas where bloodborne pathogens were spilled, urine sample collections with clients). 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.

The Firearms Instructor or Armorer shall ensure eye protection meets or exceeds the requirements provided in 8 CCR 3382.

603.6 RESPIRATORY PROTECTION

The Chief Probation Officer or the authorized designee is responsible for ensuring a respiratory protection plan is developed and maintained by a trained and qualified member. The plan shall include procedures for (8 CCR 5144):

- (a) Selecting appropriate respiratory PPE based on hazards and risks associated with functions or positions.
- (b) Fit testing, including identification of members or contractors qualified to conduct fit testing.
- (c) Medical evaluations.
- (d) PPE inventory control.
- (e) PPE issuance and replacement.
- (f) Cleaning, disinfecting, storing, inspecting, repairing, discarding, and otherwise maintaining respiratory PPE, including schedules for these activities.
- (g) Regularly reviewing the PPE plan.
- (h) Remaining current with NIOSH, American National Standards Institute (ANSI), Occupational Safety and Health Administration (OSHA), Environmental Protective Agency (EPA), and state PPE standards and guidelines.

603.6.1 RESPIRATORY PROTECTION USE

Disposable particulate masks should only be used to protect the member from particulate contaminants and are not suitable in an oxygen-deficient atmosphere or where an unsafe level of gases or fumes exists. See also the Communicable Diseases Policy.

Designated members may be issued respiratory PPE based on the member's assignment (e.g., narcotics task force).

Respiratory PPE may be worn when authorized by a scene commander who will determine the type and level of protection appropriate at a scene based upon an evaluation of the hazards present.

Scene commanders are responsible for monitoring members using respiratory PPE and their degree of exposure or stress. When there is a change in work area conditions or when a member's

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degree of exposure or stress may affect respirator effectiveness, the scene commander shall reevaluate the continued effectiveness of the respirator and direct the member to leave the respirator use area when the scene commander reasonably believes (8 CCR 5144):

- (a) The member's face and respirator facepiece need to be washed to prevent eye or skin irritation associated with respirator use.
- (b) The member detects vapor or gas breakthrough, a change in breathing resistance, or leakage of the facepiece.
- (c) The member needs to replace the respirator, filter, cartridge, or canister.

603.6.2 MEMBER RESPONSIBILITIES FOR RESPIRATORY PROTECTION

Members shall not use self-contained breathing apparatus (SCBA), full-face respirators, or cartridge respirators unless they have completed training requirements for the equipment.

Members exposed to environments that are reasonably known to be harmful due to gases, smoke, or vapors shall use respiratory PPE.

Members using respiratory PPE shall (8 CCR 5144):

- (a) Ensure that they have no facial hair between the sealing surface of the facepiece and the face that could interfere with the seal or the valve function. Members also shall ensure that they have no other condition that will interfere with the face-to-facepiece seal or the valve function.
- (b) Not wear corrective glasses, goggles, or other PPE that interferes with the seal of the facepiece to the face, or that has not been tested for use with that respiratory equipment.
- (c) Perform a user seal check per department-approved procedures recommended by the respirator manufacturer each time they put on a tight-fitting respirator.
- (d) Leave a respiratory use area whenever they detect vapor or gas breakthrough, changes in breathing resistance, or leakage of their facepiece and ensure that the respirator is replaced or repaired before returning to the affected area.

603.6.3 SELF-CONTAINED BREATHING APPARATUS

Scene commanders may direct members to use SCBA when entering an atmosphere that may pose an immediate threat to life, would cause irreversible adverse health effects, or would impair an individual's ability to escape from a dangerous atmosphere. These situations may include but are not limited to:

- (a) Entering the hot zone of a hazardous materials (HAZMAT) incident.
- (b) Entering any area where contaminant levels may become unsafe without warning, or any situation where exposures cannot be identified or reasonably estimated.
- (c) Entering a smoke- or chemical-filled area.

The use of SCBA should not cease until approved by a scene commander.

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603.6.4 RESPIRATOR FIT TESTING

No member shall be issued respiratory PPE until a proper fit testing has been completed by a designated member or contractor (8 CCR 5144).

After initial testing, fit testing for respiratory PPE shall be repeated (8 CCR 5144):

- (a) At least once every 12 months.
- (b) Whenever there are changes in the type of SCBA or facepiece used.
- (c) Whenever there are significant physical changes in the user (e.g., obvious change in body weight, scarring of the face seal area, dental changes, cosmetic surgery, or any other condition that may affect the fit of the facepiece seal).

All respirator fit testing shall be conducted in negative-pressure mode.

603.6.5 RESPIRATORY MEDICAL EVALUATION QUESTIONNAIRE

No member shall be issued respiratory protection that forms a complete seal around the face until (8 CCR 5144):

- (a) The member has completed a medical evaluation that includes a medical evaluation questionnaire.
- (b) A physician or other licensed health care professional has reviewed the questionnaire.
- (c) The member has completed any physical examination recommended by the reviewing physician or health care professional.

603.6.6 POST EXPOSURE

INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

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

REPORTING REQUIREMENTS

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

- (a) Name and Social Security number of the member exposed
- (b) Date and time of the incident
- (c) Location of the incident
- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused

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- (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).

603.6.7 GAS MASK

Full-face air-purifying respirators, commonly called gas masks, may be fitted with mechanical pre-filters or combination cartridge/filter assemblies for use in areas where gases, vapors, dusts, fumes, or mists are present. Members must identify and use the correct cartridge based on the circumstances (8 CCR 5144).

A scene commander may order the use of gas masks in situations where the use of a SCBA is unnecessary. These incidents may include areas where tear gas has or will be used. Gas masks shall not be used if there is a potential for an oxygen-deficient atmosphere.

Members shall ensure their gas mask filters are replaced whenever:

- (a) They smell, taste, or are irritated by a contaminant.
- (b) They experience difficulty breathing due to filter loading.
- (c) The cartridges or filters become wet.
- (d) The expiration date on the cartridges or canisters has been reached.

603.7 RECORDS

The Training Manager is responsible for maintaining records of all:

- (a) PPE training.
- (b) Initial fit testing for respiratory protection equipment.
- (c) Annual fit testing.
- (d) Respiratory medical evaluation questionnaires and any subsequent physical examination.

1. These records shall be maintained in a separate confidential medical file.

The records shall be maintained in accordance with the Department records retention schedule and 8 CCR 5144.

603.8 TRAINING

Members should be trained in the respiratory and other hazards to which they may be potentially exposed during routine and emergency situations.

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All members shall be trained in the proper use and maintenance of PPE issued to them, including when the use is appropriate; how to put on, remove and adjust PPE; how to care for the PPE; and the limitations (8 CCR 3380).

Members issued respiratory PPE shall attend annual training on the proper use of respiratory protection devices (8 CCR 5144).

Body Armor

604.1 PURPOSE AND SCOPE

The purpose of this policy is to provide officers with guidelines for the proper use of body armor.

604.2 POLICY

It is the policy of the San Benito County Probation Department 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 observing officer safety procedures.

604.3 ISSUANCE

The Firearms Instructor or Armorer shall ensure that body armor is issued to all officers assigned to positions requiring them to carry firearms and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

Body armor shall be issued when an officer begins service at the San Benito County Probation Department and shall be replaced when the body armor becomes worn or damaged to the point that its effectiveness or functionality has been compromised.

The Chief Probation Officer may authorize issuing body armor to uniformed, non-sworn members whose jobs may make wearing of body armor advisable.

604.3.1 USE

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

- (a) Members shall only wear department-approved body armor.
- (b) Members should wear body armor any time they are in a situation where they could reasonably be expected to take enforcement action, including but not limited to when they are participating in field supervision activities.
- (c) Members should wear body armor when working in uniform and shall be worn when an officer is taking part in department range training.
- (d) Members are not required to wear body armor when they are functioning primarily in an administrative or support capacity and would not reasonably be expected to take enforcement action.
- (e) Officers may be excused from wearing body armor when they are involved in undercover or plainclothes work that their 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.
 1. In those instances when body armor is not worn, officers should have reasonable access to their body armor.

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604.3.2 INSPECTION

The Chief Probation Officer or the authorized designee should ensure through routine observation and periodic documented inspections that body armor is worn and maintained in accordance with this policy.

Annual inspections of body armor should be conducted by a person trained to perform the inspection for fit, cleanliness, and signs of damage, abuse, and wear.

604.3.3 CARE AND MAINTENANCE

The required care and maintenance of body armor is subject to the following criteria:

- (a) Members are responsible for inspecting their body armor for signs of damage, wear, and cleanliness at the start of each shift.
 - 1. Unserviceable body armor shall be reported to the supervisor.
- (b) Members are responsible for properly storing their body armor.
 - 1. Body armor should not be stored for an extended period in an area where environmental conditions (e.g., temperature, light, humidity) could potentially degrade its effectiveness.
- (c) Members are responsible for the care and cleaning of their body armor pursuant to the manufacturer's care instructions.
 - 1. Body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer.
 - 2. Failure to follow manufacturer's care instructions may damage the ballistic performance capabilities of the body armor. If care instructions for the body armor cannot be located, the manufacturer should be contacted to request the instructions.
- (d) Body armor should be replaced in accordance with the manufacturer's recommended replacement schedule, or when its effectiveness or functionality has been compromised.

604.4 FIREARMS INSTRUCTOR RESPONSIBILITIES

The responsibilities of the Firearms Instructor include but are not limited to:

- (a) Monitoring technological advances in the body armor industry for any appropriate changes to department-approved body armor.
- (b) Assessing the level of weapons and ammunition currently utilized by the public and the suitability of approved body armor to protect against those threats.
- (c) Educating officers about the safety benefits of wearing body armor.

Chapter 7 - Support Services

Property

700.1 PURPOSE AND SCOPE

This policy provides guidelines for the proper processing, storage, security, and disposition of evidence, and other property.

700.1.1 DEFINITIONS

Definitions related to this policy include:

Property - All articles placed in secure storage within the San Benito County Probation Department, including evidence, and items taken for safekeeping.

700.2 POLICY

It is the policy of the San Benito County Probation Department to process, store, secure, and dispose of all property in a reasonable manner and to maintain documentation that tracks the location of property and its disposition.

700.3 RESPONSIBILITIES

The Chief Probation Officer should designate a property custodian responsible for the management of property held by the San Benito County Probation Department.

The property custodian should:

- (a) Maintain procedures for the safety, security, and chain of custody for property received, including procedures for packaging, submitting, storing, transferring, releasing, and disposing of property.
- (b) Maintain procedures for facility security and access control, including access logs.
- (c) Maintain emergency procedures and supplies for the continuity of operations if the facility must be evacuated or moved (e.g., for hazardous spills, fires, floods), including protective equipment for personnel, lighting, and ventilation.
- (d) Develop and make available appropriate forms.
- (e) Maintain procedures for the use of property for investigative or training purposes.
- (f) Conduct inventories and participate in audits and inspections as provided in this policy and address identified issues as appropriate.
- (g) Submit an annual report regarding money that is presumed to have been abandoned to the Chief Probation Officer and the County department responsible for auditing property.
- (h) Establish agreements with other appropriate organizations that have resources and expertise to store and destroy hazardous materials, flammable materials, explosive materials, narcotics and dangerous drugs, and other materials requiring specialized destruction.

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700.4 SECURITY

Only authorized members should have access to property. Members authorized to access secure property storage areas should take reasonable steps to prevent access by unauthorized persons. This includes preventing others from accessing related keys, access codes, passwords, or access cards and reporting any possible breaches or security concerns as soon as practicable.

700.5 PROPERTY HANDLING

The member who first comes into possession of property is generally responsible for the collection, care, custody, and control of the property until it is securely stored.

Receipts should be provided to individuals when property is received or removed from them.

A supervisor should be notified when a submitting member did not follow appropriate procedures.

Members should securely store property prior to going off-duty.

700.6 SPECIAL CONSIDERATIONS

The following items require special handling and should be processed according to department procedures and as follows:

700.6.1 CONTROLLED SUBSTANCES

- (a) Controlled dangerous substances should only be handled using the appropriate type and level of personal protective equipment.
- (b) Controlled dangerous substances should not be tested by members.
- (c) Controlled substances shall not be packaged with other property.
- (d) Appropriate weights should be obtained and documented.
- (e) Marijuana should be packaged in a container that allows for drying.
- (f) The property custodian should monitor stored marijuana for growth of mold.

700.6.2 MISCELLANEOUS

The following items require special consideration and should be handled in line with current department procedures, to include the following:

- (a) Digital evidence should be stored in a manner to prevent it from becoming demagnetized.
- (b) Knife boxes should be used to package knives.
- (c) All syringes, needles or other sharps seized in the field should be collected in syringe tubes, photographed, and disposed of in a sharps container.

700.7 RECORDING OF PROPERTY

Members should ensure that all documentation and tagging is completed when entering property and evidence. The property custodian receiving custody of property shall ensure a property control record for each item or group of items has been created.

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The property custodian shall ensure that a unique property number is obtained for each item or group of items.

700.8 INSPECTION OF THE PROPERTY STORAGE AREA

The Assistant Chief Probation Officer shall ensure that periodic, unannounced inspections of the storage facilities are conducted to ensure adherence to appropriate policies and procedures. The Assistant Chief Probation Officer also shall ensure that an audit is conducted annually, or as directed by the Chief Probation Officer. Inspections and audits shall be conducted by a member of this department who is not routinely or directly connected with the property operations.

Whenever there is a change of assignment for any member with authorized access to the stored property, an inventory of all property shall be conducted by a person who is not associated with the stored property, or its function. This is to ensure that all property is accounted for and the records are correct.

Records Maintenance and Release

701.1 PURPOSE AND SCOPE

This policy establishes guidelines for the maintenance, release, and disposition of records maintained by the Department. The policy addresses responsibilities of the Administrative Services Specialist or designee for the management of file access, and requests for release of information and records.

701.2 POLICY

It is the policy of the Department to maintain client records and to provide for the access to and release of records consistent with department policies, administrative directives, and applicable state law.

701.3 RECORDS CUSTODIAN RESPONSIBILITIES

The Chief Probation Officer shall designate the Administrative Services Specialist as the records custodian. The responsibilities of the Administrative Services Specialist include but are not limited to:

- (a) Maintaining and updating a records procedure manual.
- (b) Supervising the access, use, and release of protected information (see the Protected Information Policy).
- (c) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.
- (d) Maintaining and updating the department records retention schedule, including:
 1. Identifying the minimum length of time the Department must keep records.
 2. Identifying who has the responsibility for the original record.
- (e) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records (Government Code § 7922.525; Government Code § 7922.530).
- (f) Identifying records or portions of records that have release restrictions or are confidential under state or federal law and not open for inspection or copying.
- (g) Establishing procedures for sharing records as permitted by law with clients, their designees, and coordinating agencies, including law enforcement agencies, social service agencies, and medical and mental health providers.
- (h) Establishing rules regarding the processing of subpoenas for the production of records.
- (i) Maintaining compliance with federal, state, and local regulations regarding reporting requirements of data.
- (j) Ensuring the availability of a current schedule of fees for public records as allowed by law (Government Code § 7922.530).

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- (k) Determining how the department's website may be used to post public records in accordance with Government Code § 7922.545.
- (l) Ensuring that public records posted on the department website meet the requirements of Government Code § 7922.680, 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.

701.4 PROCESSING REQUESTS FOR RECORDS

Any department member who receives a request for any records shall route the request to the Administrative Services Specialist or authorized designee.

701.4.1 REQUESTS FOR PUBLIC RECORDS

The processing of requests for public records is subject to the following (Government Code § 7922.530):

- (a) The Department is not required to create records that do not exist.
- (b) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions.
 2. If the record is an audio or video recording, a copy of the redacted audio/video recording release should be maintained in the department-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.
- (c) Either the requested record or the reason for nondisclosure 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 Administrative Services Specialist or the authorized designee. If an extension is authorized, the Department 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 Administrative Services Specialist 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 Administrative Services Specialist shall also assist in describing the information and technology and physical location in which the record exists (Government Code § 7922.600).
 2. If the record requested is available on the department 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.

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- (d) Upon request, a record shall be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested (Government Code § 7922.570; Government Code § 7922.580).

701.4.2 DENIALS

The denial of a request for public records is subject to the following:

- (a) 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 § 7922.000; Government Code § 7922.540).
- (b) The written response to the denial shall include the names, titles, or positions of each person responsible for the denial (Government Code § 7922.540).

701.4.3 RELEASE RESTRICTIONS

Examples of release restrictions include (except where allowed by law or court order):

- (a) Client records, including client classification, disciplinary records, pre-sentence or disposition reports, supervision reports, and progress reports.
- (b) Probation reports filed with a court (Penal Code § 1203.03; Penal Code § 1203.05).
- (c) Records relating to juveniles (Welfare and Institutions Code § 827; Welfare and Institutions Code § 827.95; Welfare and Institutions Code § 831).
- (d) Client medical, mental health, and substance abuse records (Government Code § 7930.130; Government Code § 7930.170; 42 CFR 2.35).
- (e) Client education records (Family Education Rights and Privacy Act of 1974 (FERPA); Education Code § 49076).
- (f) Personnel records, medical records, or similar files that would involve an unwarranted invasion of personal privacy (Government Code § 7927.700; Penal Code § 832.8; Evidence Code § 1043 et seq.).
- (g) Home addresses, home telephone numbers, personal cellular telephone numbers, and birth dates of department members except as allowed by Government Code § 7928.300.
- (h) Criminal intelligence and criminal history information (Penal Code § 13102; Penal Code § 13300) (see also the Protected Information Policy).
- (i) 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)).

701.5 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Administrative Services Specialist 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.

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Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the appropriate prosecutor or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

701.6 RELEASED RECORDS TO BE MARKED

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released.

Each audio/video recording released should include the department name and to whom the record was released.

701.7 SECURITY BREACHES

Members who become aware that any San Benito County Probation Department system containing personal information may have been breached should notify the Administrative Services Specialist as soon as practicable.

The Administrative Services Specialist 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 department 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 Department 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 (Civil Code § 1798.29).

If a single breach requires the Department to notify more than 500 California residents, the Department shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the California Attorney General (Civil Code § 1798.29).

For the purposes of the notice requirement, personal information includes (Civil Code § 1798.29):

- (a) An individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:
 - 1. Social Security number
 - 2. Driver's 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

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3. Full account number, credit or debit card number, or any required security code, access code, or password that would permit access to an individual's financial account
 4. Medical information
 5. Health insurance information
 6. Unique biometric data
 7. Genetic data
- (b) A username or email address, in combination with a password or security question and answer that would permit access to an online account.

If the breach reasonably appears to have been made to protected information covered in the Protected Information Policy, the Administrative Services Specialist should promptly notify the appropriate member designated to oversee the security of protected information (see the Protected Information Policy).

701.8 SEALED RECORD ORDERS

Sealed record orders received by the Department shall be reviewed for appropriate action by the Administrative Services Specialist and, if appropriate, the member assigned to supervision of the client.

The Administrative Services Specialist shall seal such records as ordered by the court. Once a 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; Welfare and Institutions Code § 786; Welfare and Institutions Code § 786.5).

701.8.1 SEALED JUVENILE ARREST RECORDS

The Administrative Services Specialist or the authorized designee shall seal the arrest and other records in department custody relating to a juvenile's arrest and referral and participation in a diversion or supervision program as provided by Welfare and Institutions Code § 786.5.

The Administrative Services Specialist or the authorized designee should ensure that an arresting law enforcement agency is notified to seal any arrest records required by Welfare and Institutions Code § 786.5. Within 30 days of receipt of notification from the arresting law enforcement agency that the records have been sealed, the Administrative Services Specialist should ensure that the involved minor receives written notification that their records have been sealed. If the records are not sealed, written notice shall inform the minor of their ability to petition the court directly to seal their arrest and other related records (Welfare and Institutions Code § 786.5).

701.9 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS

Video and audio recordings related to critical incidents shall be released pursuant to a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 7923.625).

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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 any officer, or depicts an incident in which the use of force by any officer against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 7923.625).

The Administrative Services Specialist should work as appropriate with the Chief Probation Officer or the Assistant Chief Probation Officer supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

701.9.1 DELAY OF RELEASE

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source. Disclosure may be delayed up to 45 days from the date the Department knew or reasonably should have known about the incident. After the initial 45 days and up to one year, delayed disclosure may continue if the Department demonstrates substantial interference with the investigation. Any delayed disclosure longer than one year must be supported by clear and convincing evidence (Government Code § 7923.625).

701.9.2 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the Administrative Services Specialist shall provide written notice to the requester as follows (Government Code § 7923.625):

- (a) During the initial 45 days, the Administrative Services Specialist shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.
- (b) When delay is continued after the initial 45 days, the Administrative Services Specialist 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 Administrative Services Specialist should work with the Chief Probation Officer 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.

701.9.3 REDACTION

If the Administrative Services Specialist, in consultation with the Chief Probation Officer or the authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department 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

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events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 7923.625).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Administrative Services Specialist shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 7923.625).

701.9.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE

If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Department may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 7923.625):

- (a) The person in the recording whose privacy is to be protected, or the 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 Department determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Administrative Services Specialist shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 7923.625).

The Department may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 7923.625).

Protected Information

702.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release, and security of protected information by members of the San Benito County Probation Department. This policy addresses the protected information used in the day-to-day operation of the Department and not the public records information covered in the Records Maintenance and Release Policy.

702.1.1 DEFINITIONS

Definitions related to this policy include:

Protected information - Any information or data collected, stored, or accessed by members of the San Benito County Probation Department and that is subject to any access or release restrictions imposed by law, regulation, order, or use agreement. This includes all information in federal, state, or local law enforcement databases that is not accessible to the public.

702.2 POLICY

Members of the San Benito County Probation Department will adhere to all applicable laws, orders, regulations, use agreements, and training related to the access, use, dissemination, and release of protected information.

702.3 RESPONSIBILITIES

The Chief Probation Officer shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include but are not limited to:

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

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702.4 ACCESS TO PROTECTED INFORMATION

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, San Benito County Probation Department 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.

702.4.1 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).

702.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

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

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Administrative Services Specialist for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from law enforcement agencies who are assisting in an investigation or conducting a related investigation. Any such information should be released through the Administrative Services Specialist to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

702.5.1 TRANSMISSION GUIDELINES

Protected information, such as restricted Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should not be transmitted via unencrypted radio. When circumstances reasonably indicate that the immediate safety of officers, other department members, or the public is at risk, only summary information may be transmitted.

In cases where the transmission of protected information, other than CJI and CHRI, is necessary to accomplish a legitimate law enforcement purpose, and utilization of an encrypted radio channel is infeasible, a Mobile Data Terminal or department-issued cellular telephone should be utilized when practicable. If neither are available, unencrypted radio transmissions shall be subject to the following:

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- Elements of protected information should be broken up into multiple transmissions, to minimally separate an individual's combined last name and any identifying number associated with the individual, from either first name or first initial.
- Additional information regarding the individual, including date of birth, home address, or physical descriptors, should be relayed in separate transmissions.

Nothing in this policy is intended to prohibit broadcasting warrant information.

702.5.2 REVIEW OF CRIMINAL OFFENDER RECORD

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

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

702.6 SECURITY OF PROTECTED INFORMATION

The Chief Probation Officer will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include but are not limited to:

- (a) Developing and maintaining security practices, procedures, and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis, and containment of security incidents, including computer attacks.
- (d) Tracking, documenting, and reporting all breach of security incidents to the Chief Probation Officer and appropriate authorities.

702.6.1 MEMBER RESPONSIBILITIES

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

702.7 CRIMINAL INTELLIGENCE SYSTEMS

No department member may create, submit to, or obtain information from a criminal intelligence system unless the Chief Probation Officer has approved the system for department use.

Any criminal intelligence system approved for department use should meet or exceed the standards of 28 CFR 23.20.

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A designated supervisor will be responsible for supervising the use of any criminal intelligence system by members. The supervisor or the authorized designee should ensure the following:

- (a) Members using any such system are appropriately selected and trained.
- (b) Use of every criminal intelligence system is appropriately reviewed and audited.
- (c) Any system security issues are reasonably addressed.

702.7.1 SYSTEM ENTRIES

It is the designated supervisor's responsibility to approve the entry of any information from a report, case notes, a photo, or other relevant document into an authorized criminal intelligence system. If entries are made based upon information that is not on file with this department, such as open or public source documents or documents that are on file at another agency, the designated supervisor should ensure copies of those documents are retained by the Administrative Services Specialist. Any supporting documentation for an entry shall be retained by the Administrative Services Specialist in accordance with the established records retention schedule and for at least as long as the entry is maintained in the system.

The designated supervisor should ensure that any documents retained by the Administrative Services Specialist are appropriately marked as intelligence information. The Administrative Services Specialist may not purge such documents without the approval of the designated supervisor.

702.7.2 SHARED GANG DATABASE

Any shared gang database shall be accessed and maintained in accordance with state and federal law, guidelines, and regulations (Penal Code § 186.36).

702.8 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.

702.9 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).

Chapter 8 - Personnel

Recruitment and Selection

800.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the San Benito County Probation Department and that are promulgated and maintained by Human Resources Department.

800.2 POLICY

In accordance with applicable federal, state, and local law, the San Benito County Probation Department 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 Department does not show partiality or grant any special status to any applicant, employee, or group of employees unless otherwise required by law.

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

800.3 SELECTION PROCESS

The Department shall actively strive to identify a diverse group of candidates who have in some manner distinguished themselves as being outstanding prospects. Minimally, the Department should employ a comprehensive screening, background investigation, and selection process that assesses cognitive and physical abilities and includes review and verification of:

- (a) A comprehensive application for employment (including previous employment, references, current and past 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 before extending an offer of employment (Penal Code § 832.12).
 2. This includes a review of prior law enforcement employment information maintained by candidate's former employing agencies.
- (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.

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- (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) Polygraph or lie detector test, or similar test or examination (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.

800.4 BACKGROUND INVESTIGATION

Every candidate shall undergo a thorough background investigation to verify the candidate's personal integrity and high ethical standards, and to identify any past behavior that may be indicative of the candidate's unsuitability to perform duties relevant to the operation of the San Benito County Probation Department (Government Code § 1031; 15 CCR 131).

800.4.1 INVESTIGATOR TRAINING

Background investigators should complete background investigation training certified by the Commission on Peace Officer Standards and Training (POST) and/or Standards and Training for Corrections (STC) before conducting investigations.

800.4.2 BACKGROUND INVESTIGATION UPDATE

A background investigation update may, at the discretion of the Chief Probation Officer, be conducted in lieu of a new full background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the San Benito County Probation Department.

800.4.3 NOTICES

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

800.4.4 STATE NOTICES

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

800.4.5 REVIEW OF SOCIAL MEDIA SITES

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

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The Assistant Chief Probation Officer 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:

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

Regardless of whether a third party is used, the Assistant Chief Probation Officer should ensure that potentially impermissible information is not available to any person involved in the candidate selection process.

800.4.6 RECORDS RETENTION

The background report and all supporting documentation shall be maintained in accordance with the established records retention schedule.

800.4.7 DOCUMENTING AND REPORTING

The background investigator shall summarize the results of the background investigation in a 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. The report and all supporting documentation shall be included in the candidate's background investigation file.

The narrative report and any other relevant information pertaining to all candidates should be shared with the psychological evaluator. Information should also be shared with others involved in the hiring process if it is relevant to their respective evaluations.

800.5 DISQUALIFICATION GUIDELINES

As a general rule, performance indicators, 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

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

800.6 EMPLOYMENT STANDARDS

All candidates shall meet the minimum standards established by the department and required by state law. Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Department and the community (Government Code § 1029; Government Code § 1031; 15 CCR 131).

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 Human Resources Department should maintain validated standards for all positions.

800.6.1 STANDARDS FOR OFFICERS

Candidates shall meet the minimum standards established by California law, including those provided in Government Code § 1029, Government Code § 1031, and 15 CCR 131:

- (a) Free of any felony convictions
- (b) Legally authorized to work in the United States under federal law
- (c) At least 18 years of age
- (d) Fingerprinted for local, state, and national fingerprint check
- (e) Good moral character as determined by a thorough background investigation
- (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, that might adversely affect the exercise of peace officer powers
- (h) Free of hate group memberships, participation in hate group activities, or advocacy of public expressions of hate within the previous seven years and since age 18 as determined by a background investigation (Penal Code § 13681)

Candidates must also satisfy the STC minimum selection requirements.

800.7 JOB DESCRIPTIONS

The Administrative Services Specialist should ensure that a current job description is maintained for each position in the Department.

800.8 PROBATIONARY PERIODS

The Administrative Services Specialist should coordinate with the County Human Resources Department to identify positions subject to probationary periods and procedures for:

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- (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.

Standards of Conduct

801.1 PURPOSE AND SCOPE

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

801.2 POLICY

The continued employment or appointment of every member of this department 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.

801.3 DIRECTIVES AND ORDERS

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

801.3.1 UNLAWFUL OR CONFLICTING ORDERS

Supervisors and managers shall not knowingly issue orders or directives that, if carried out, would result in a violation of any law or department policy. Supervisors and managers 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 or manager 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 conflicts with a previous lawful order, department policy, or other directive shall respectfully inform the issuing supervisor or manager of the conflict. The issuing supervisor or manager 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 or manager the opportunity to correct the conflict will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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

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801.3.2 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 the immediate supervisor or to document such misconduct appropriately or as required by policy.
- (c) Directing a subordinate to violate a policy or directive, acquiescing to such a violation, or exhibiting indifference to such a violation.
- (d) Exercising unequal or disparate authority toward any member for malicious or other improper purpose.

801.4 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 (see the Policy Manual Policy).

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.

801.5 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 department service.

801.5.1 LAWS, RULES, AND ORDERS

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

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801.5.2 ETHICS

- (a) Using or disclosing one's status as a member of the San Benito County Probation Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (b) Wrongfully or unlawfully exercising authority on the part of any member for malicious purpose, personal gain, willful deceit, or any other improper purpose.
- (c) Receiving or accepting 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) Accepting fees, gifts, or money contrary to the rules of this department and/or laws of the state.
- (e) Offering or accepting of a bribe or gratuity.
- (f) Misappropriating or misusing public funds, property, personnel, or services.
- (g) Any other failure to abide by the standards of ethical conduct.

801.5.3 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.

801.5.4 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, probationer, supervised person, or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime, and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official, basis with persons who demonstrate recurring involvement in serious violations of state or federal laws, or who are under the supervision of the courts, any probation department, or any correctional authority after the member knows, or reasonably should know, of such criminal activities, except as specifically directed and authorized by this department.

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- (f) Participation in a law enforcement gang as defined by Penal Code § 13670. Participation is grounds for termination (Penal Code § 13670).

801.5.5 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 place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

801.5.6 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 department.
 - 1. Members of this department 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, client, or critical incident information.
- (c) Using any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief Probation Officer or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any San Benito County Probation Department badge, uniform, identification card, or department property for personal use, personal gain, or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include but are not limited to personnel, vehicles, equipment, and non-subpoenaed records.

801.5.7 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.

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- (e) Failure to notify the Department within 48 hours of any change in residence address or contact telephone numbers.
- (f) Failure to notify the Human Resources Department of changes in relevant personal information (e.g., information associated with benefits determination) in a timely fashion.

801.5.8 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) Falsifying any work-related records, making misleading entries or statements with the intent to deceive, or the willful and unauthorized removal, alteration, destruction, and/or mutilation of any department record, public record, book, paper, or document.
- (c) Failure to participate in investigations, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.
- (d) Being untruthful or knowingly making false, misleading, or malicious statements that are reasonably calculated to harm the reputation, authority, or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency, and discipline of this department, or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on department premises
 - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system
- (g) Improper political activity, including:
 - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
 - 2. Solicitations, speeches, or distribution of campaign literature for or against any political candidate or position while on-duty or on department property except as expressly authorized by County policy, the collective bargaining agreement or memorandum of understanding, or the Chief Probation Officer.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by San Benito policy, the collective bargaining agreement or memorandum of understanding, or the Chief Probation Officer.
- (i) Any act on- or off-duty that brings discredit to this department.

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801.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on the member's 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 probation officer powers by unreasonable, unlawful, or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening, or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful, or discriminatory treatment of any member of the public or any member of this department or the County.
- (g) Use of obscene, indecent, profane, or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel, or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any collective bargaining agreement or memorandum of understanding, including 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 Probation Officer of such action.
- (m) Any other on- or off-duty conduct that any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency, or morale, or reflects unfavorably upon this department or its members.

801.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver's license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform probation duties.

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- (d) Unsafe firearm or other dangerous weapon handling including loading or unloading firearms in an unsafe manner, either on- or off-duty.
- (e) Carrying, while on the premises of the work site, 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 accident.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable within 24 hours of the event.

801.5.11 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.

Performance Evaluations

802.1 PURPOSE AND SCOPE

This policy provides guidelines for the San Benito County Probation Department performance evaluation system.

802.2 POLICY

The San Benito County Probation Department shall use a performance evaluation system to measure, document, and recognize work performance. The performance evaluation will serve as an objective guide for the recognition of good work and the development of a process for improvement.

The Department evaluates employees in a nondiscriminatory 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.

802.3 TYPES OF EVALUATIONS

The Department shall use the following types of evaluations:

Regular - An evaluation completed at regular intervals by the employee's immediate supervisor. Employees who have been promoted should be evaluated as established by the Human Resources Department or, minimally, on the anniversary of the last promotion.

When an employee transfers to a different assignment in the middle of an evaluation period, and fewer than six months has transpired since the transfer, the evaluation should be completed by the current supervisor with input from the previous supervisor.

Special - An evaluation that may be completed at any time the supervisor and Chief Probation Officer or the authorized designee determine an evaluation is necessary to address less than standard performance. The evaluation may include a plan for follow-up action (e.g., performance improvement plan (PIP), remedial training, retraining).

802.3.1 RATINGS

When completing an evaluation, the supervisor will identify the rating category that best describes the employee's performance. The definition of each rating category is as follows:

Outstanding - Performance is well beyond that required for the position. It is exceptional performance, definitely superior, or extraordinary.

Exceeds job standards - Performance is better than demonstrated by a competent employee. It is performance superior to what is required but is not of such nature to warrant a rating of outstanding.

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Meets job standards - Performance of a competent employee. It is satisfactory performance that meets the standards required of the position.

Improvement needed - Performance is less than the standards required of the position. A needs improvement rating shall be thoroughly discussed with the employee.

Unacceptable - Performance is inferior to the standards required of the position. It is inadequate or undesirable performance that cannot be allowed to continue.

Not Applicable - The employee is not required to perform in a specific rating factor and it can not be measured.

Supervisor comments may be included in the evaluation to document the employee's strengths, weaknesses, and requirements for improvement. Any job dimension rating marked as unsatisfactory or outstanding shall be substantiated with supervisor comments.

802.3.2 PERFORMANCE IMPROVEMENT PLAN (PIP)

Employees who receive an unsatisfactory rating may be subject to a PIP. The PIP shall delineate areas that need improvement, any improvement measures, and a timetable in which to demonstrate improvement. The issuing supervisor shall meet with the employee to review the employee's performance and the status of the PIP at least monthly.

802.4 EVALUATION PROCESS

Supervisors should meet with the employees they supervise at the beginning of the evaluation period to discuss expectations and establish performance standards. Each supervisor should discuss standards of expected performance and evaluation criteria with each employee.

Performance evaluations cover a specific period and should be based on documented performance dimensions that are applicable to the duties and authorities granted to the employee during that period. Evaluations should 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 evaluating supervisor for input.

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 and to acknowledge good work. Periodic discussions with the employee during the course of the evaluation period are encouraged. Supervisors should document all discussions in the prescribed manner.

Non-probationary employees demonstrating substandard performance shall be notified in writing 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.

All supervisors should receive training on performance evaluations within one year of a supervisory appointment.

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802.5 EVALUATION FREQUENCY

Supervisors shall ensure that all employees they supervise are evaluated at least once every year on the anniversary of the employee's date of appointment or hire.

Those employees who are required to successfully complete a probationary period may be evaluated more frequently.

802.6 EVALUATION INTERVIEW

When the supervisor has completed the employee's evaluation, a private discussion of the evaluation should be scheduled with the employee. The supervisor should discuss the evaluation ratings and respond to any questions the employee may have. The supervisor should provide relevant counseling regarding advancement, specialty positions, and training opportunities. Any performance areas in need of improvement and goals for reaching the expected level of performance should be identified and discussed. If the employee has reasonable objections to any of the ratings, the supervisor may make appropriate adjustments to the evaluation. The reason for such adjustments shall be documented.

Employees may write comments in an identified section of the evaluation. The supervisor and employee will sign and date the evaluation.

The employee may elect to meet with the Chief Probation Officer to review their evaluation. The Chief Probation Officer will meet with the employee as soon as practicable.

802.6.1 DISCRIMINATORY HARASSMENT FORM

At the time of each employee's annual evaluation, the supervisor shall provide access to and require the employee to read the County harassment and discrimination policies. The supervisor shall give the employee a form to be completed and returned that acknowledges the following:

- (a) The employee understands the harassment and discrimination policies.
- (b) The employee has had all questions regarding the policies sufficiently addressed.
- (c) The employee knows how to report alleged harassment and discrimination policy violations.
- (d) Whether the employee has been the subject of, or witness to, any unreported conduct that may violate the discrimination or harassment policies.

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. If the employee has expressed any questions or concerns, the receiving supervisor or other authorized individual shall ensure that appropriate follow-up action is taken.

802.7 APPEAL

An employee who disagrees with the evaluation may provide a formal written response that will be attached to the evaluation, or may request an appeal.

To request an appeal, the employee shall forward a written memorandum within three days to the evaluating supervisor's Assistant Chief Probation Officer or the authorized designee. The

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memorandum shall identify the specific basis for the appeal and include any relevant information for the reviewer to consider.

802.8 CHAIN OF REVIEW

The signed performance evaluation and any employee attachment should be forwarded to the Chief Probation Officer or the authorized designee. The Chief Probation Officer or the authorized designee shall review the evaluation for fairness, impartiality, uniformity, and consistency, and shall consider any written response or appeal made by the employee.

The Chief Probation Officer or the authorized designee should evaluate the supervisor on the quality of ratings given.

802.9 RETENTION AND DISTRIBUTION

The original performance evaluation and any original correspondence related to an appeal shall be maintained by the Department in accordance with the Personnel Records Policy.

A copy of the evaluation and any documentation of a related appeal shall be provided to the employee and also forwarded to the County Human Resources Department.

Special Assignments and Promotions

803.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for promotions and for making assignments within the San Benito County Probation Department.

803.2 POLICY

The San Benito County Probation Department determines assignments and promotions in a nondiscriminatory manner based upon job-related factors and candidate skills and qualifications. Assignments and promotions are made by the Chief Probation Officer.

803.3 SPECIAL ASSIGNMENT POSITIONS

The following positions are considered special assignments and not promotions:

- (a) Interagency task force
- (b) Field Training Officer
- (c) Court officer

803.3.1 GENERAL REQUIREMENTS

The following requirements should be considered when selecting a candidate for a special assignment:

- (a) Three years of relevant experience
- (b) Off probation
- (c) Possession of or ability to obtain any certification required by the California Board of State and Community Corrections (BSCC) or Standards and Training for Corrections (STC)
- (d) Exceptional skills, experience, or abilities related to the special assignment

803.3.2 EVALUATION CRITERIA

The following criteria will be used in evaluating candidates for a special assignment:

- (a) Presents a professional, neat appearance
- (b) Maintains a physical condition that aids in performance
- (c) Expresses an interest in the assignment
- (d) Demonstrates the following traits:
 - 1. Emotional stability and maturity
 - 2. Stress tolerance
 - 3. Sound judgment and decision-making
 - 4. Personal integrity and ethical conduct
 - 5. Leadership skills

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6. Initiative
7. Adaptability and flexibility
8. Ability to conform to department goals and objectives in a positive manner

803.3.3 SELECTION PROCESS

The selection process for special assignments will include an administrative evaluation as determined by the Chief Probation Officer to include:

- (a) Supervisor recommendations - Each supervisor who has supervised or otherwise been involved with the candidate will submit a recommendation.
 1. The supervisor recommendations will be submitted to the Supervisor for whom the candidate will work.
- (b) Supervisor interview - The Supervisor will schedule interviews with each candidate.
 1. Based on supervisor recommendations and those of the Supervisor after the interview, the Supervisor will submit recommendations to the Chief Probation Officer.
- (c) The Chief Probation Officer or the authorized designee will make appointments.

The selection process for all special assignment positions may be waived for temporary assignments, emergency situations, training, and at the discretion of the Chief Probation Officer or the authorized designee.

803.4 PROMOTIONAL REQUIREMENTS

Requirements and information regarding any promotional process are available at the County Human Resources Department.

Grievances

804.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the San Benito County Probation Department grievance system. The grievance system is intended to facilitate communication and to promptly and equitably address employee grievances in the workplace.

804.1.1 GRIEVANCE DEFINED

A grievance is a difference of opinion or dispute regarding the meaning, interpretation, or application of any of the following:

- The collective bargaining agreement or memorandum of understanding
- This Policy Manual
- Rules and regulations governing personnel practices or working conditions. The grievance procedure is outlined in [County of San Benito Personnel Policies and Procedures Handbook, 6.12.17](#).
- Workplace issues that do not amount to misconduct under the Personnel Complaints Policy, such as fraud, waste, abuse of authority, gross mismanagement, or any inappropriate conduct or practices, including violations that may threaten the health, safety, or well-being of members

Specifically outside the category of grievances 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 department employee that, if true, would constitute a violation of department policy or federal, state, or local law, as set forth in the Personnel Complaints Policy.

804.2 POLICY

It is the policy of the San Benito County Probation Department to provide a just and equitable system for the prompt handling of employee grievances without discrimination, coercion, restraint, or retaliation against any employee who submits or is otherwise involved in a grievance.

804.3 POLICY OR TRAINING IMPLICATIONS

If an employee who participates in the grievance review process identifies any issue that may warrant an immediate revision to this Policy Manual, a procedural change, or an immediate training need, the employee should promptly notify the Chief Probation Officer in the memorandum.

Anti-Retaliation

805.1 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 threaten 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 should supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member under any federal law, provision of the U.S. Constitution, state and local law, ordinance, or collective bargaining agreement or memorandum of understanding.

805.2 POLICY

The San Benito County Probation Department has 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 reporting or investigating workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

805.3 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:

- (a) Refusing to hire or denying a promotion.
- (b) Extending the probationary period.
- (c) Unjustified reassignment of duties or change of work schedule.
- (d) Real or implied threats or other forms of intimidation to dissuade reporting wrongdoing or filing a complaint, or as a consequence of having reported or participated in protected activity.
- (e) Taking unwarranted disciplinary action.
- (f) Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- (g) Shunning or unreasonably avoiding a person because the person has engaged in protected activity.

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805.3.1 RETALIATION PROHIBITED FOR REPORTING VIOLATIONS

An officer shall not be retaliated against for reporting a suspected violation of a law or regulation of another officer to a supervisor or other person in the San Benito County Probation Department who has the authority to investigate the violation (Government Code § 7286(b)).

805.4 COMPLAINTS OF RETALIATION

Any member who feels the member has been retaliated against in violation of this policy should promptly report the matter to any supervisor, any command staff member, the Chief Probation Officer or the County Human Resources Department.

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 to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false or 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, 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 are part of the investigative process.

805.5 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 Probation Officer 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) Following up with the complainant periodically to ensure that retaliation is not continuing.

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- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

805.6 ADMINISTRATIVE STAFF MEMBER RESPONSIBILITIES

The Chief Probation Officer should communicate to all supervisors the prohibition against retaliation.

Administrative staff shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

805.7 WHISTLEBLOWING

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 has 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 before 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 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 Assistant Chief Probation Officer for investigation pursuant to the Personnel Complaints Policy.

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805.7.1 DISPLAY OF WHISTLEBLOWER LAWS

The San Benito County Probation Department shall display a notice to members regarding their rights and responsibilities under the whistleblower laws, including the whistleblower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

805.8 RECORDS RETENTION AND RELEASE

The Human Resources Department shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

805.9 TRAINING

This policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

Reporting of Arrests, Convictions, and Court Orders

806.1 PURPOSE AND SCOPE

The purpose of this policy is to describe the notification requirements and procedures that employees must follow when certain arrests, convictions, and court orders restrict their ability to perform the official duties and responsibilities of the San Benito County Probation Department.

This policy will also describe the notification requirements and procedures that certain retired officers must follow when an arrest, conviction, or court order disqualifies them from possessing a firearm.

806.2 POLICY

The San Benito County Probation Department requires disclosure of employee arrests, convictions, and certain court orders to maintain the high standards, ethics, and integrity in its workforce, and to ensure compatibility with the duties and responsibilities of the San Benito County Probation Department.

806.3 DOMESTIC VIOLENCE CONVICTIONS AND COURT ORDERS

California and federal law prohibits individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing firearms. Such convictions and court orders often involve allegations of the use or attempted use of force, or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

All employees and retired officers with identification cards issued by the department are responsible for ensuring that they have not been disqualified from possessing firearms by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

806.4 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Any person convicted of a felony is prohibited from being a peace officer. The prohibition applies whether guilt was established by way of a verdict, or a guilty or nolo contendere plea (Government Code § 1029).

Convictions of certain violations of the Vehicle Code and other provisions of law (e.g., driver's license suspension or revocation) may also place restrictions on an employee's ability to fully perform the duties of the job.

Outstanding warrants also place restrictions on the ability of an officer to possess a firearm or remain a peace officer (Government Code § 1029; Penal Code § 29805).

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by employees inherently conflicts with their duties and the public trust.

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806.5 REPORTING PROCEDURE

All employees and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief Probation Officer in the case of retired officers) in writing of any past or current criminal detention, arrest, charge, outstanding warrant, or conviction, regardless of whether the matter was dropped or rejected, is pending, or is on appeal, and regardless of the penalty or sentence, if any.

All employees and all retired officers with an identification card issued by the Department shall promptly notify their immediate supervisor (or the Chief Probation Officer in the case of retired officers) in writing if they become the subject of a domestic violence-related order or similar court order or become the subject of an outstanding warrant.

Any employee whose criminal arrest, conviction, or court order restricts or prohibits that employee from fully and properly performing duties, including carrying a firearm, may be disciplined. This includes but is not limited to being placed on administrative leave, reassignment, and/or termination. Any effort to remove such disqualification or restriction shall remain entirely the responsibility of the employee, on the employee's own time and expense.

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

Retired officers may have their identification cards rescinded or modified, as may be appropriate (see the Retiree Concealed Firearms Policy).

Drug- and Alcohol-Free Workplace

807.1 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).

807.2 POLICY

It is the policy of the San Benito County Probation Department to provide a drug- and alcohol-free workplace for all members.

807.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department 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 Assistant Chief Probation Officer 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).

807.3.1 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 before beginning any on-duty status.

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

807.3.2 MEDICAL CANNABIS

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

807.4 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 department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

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Members 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).

807.5 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 Human Resources Department, their insurance providers, or the employee assistance program for more information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

807.6 WORK RESTRICTIONS

If a member informs a supervisor that the member 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 the member's 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 the member is safely transported away from the Department.

807.7 SCREENING TESTS

A supervisor may require an employee to submit to a screening test 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 duties (excluding training or authorized euthanasia of an animal).
- (c) The employee discharges a firearm issued by the Department while off-duty, resulting in injury, death, or substantial property damage.
- (d) The employee drives a motor vehicle in the performance of duties and becomes involved in an incident that results in bodily injury, death, or substantial damage to property.

807.7.1 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 that:

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

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- (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.

807.7.2 DISCIPLINE

An employee may be subject to disciplinary action if the employee:

- (a) Fails or refuses to submit to a screening test.
- (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.

807.8 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 Department will take appropriate disciplinary action, up to and including dismissal, and/or requiring the member to satisfactorily participate in a drug abuse assistance or rehabilitation program (41 USC § 8104).

807.9 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately in the member's confidential medical file in accordance with the Personnel Records Policy.

Sick Leave

808.1 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 of San Benito Personnel Policies and Procedures Handbook, 6.11.3](#) or applicable collective bargaining agreement or memorandum of understanding.

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 (Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

808.2 POLICY

It is the policy of the San Benito County Probation Department to provide eligible employees with a sick-leave benefit.

808.3 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those members 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 Human Resources Department 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 department 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.

808.4 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.

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- (b) A poster that contains information on paid sick leave as provided in Labor Code § 247 is conspicuously displayed.

808.5 NOTIFICATION

All members should notify their immediate supervisor, or an appropriate supervisor, if immediate supervisor is unavailable, 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 a member is unable to contact the supervisor due to an emergency, 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 practicable, provide the Department 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.

Communicable Diseases

809.1 PURPOSE AND SCOPE

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

809.1.1 DEFINITIONS

Definitions related to this policy include:

Communicable disease - A human disease caused by microorganisms present in and transmissible through human blood, urine, 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, the mouth, a mucous membrane, or non-intact skin comes into contact with blood, urine, 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 includes only those instances that occur due to a member's position at the San Benito County Probation Department. (See the agency's exposure control plan for further details to assist in identifying whether an exposure has occurred).

809.2 POLICY

The San Benito County Probation Department is committed to providing a safe work environment for its members. Members should know that they are ultimately responsible for their own health and safety.

809.3 EXPOSURE CONTROL OFFICER

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

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

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3. Airborne transmissible disease precautions (8 CCR 5199).
 - (a) Engineering and work practice controls related to airborne transmissible diseases.
 - (b) Distribution of appropriate PPE 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 who 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).
- (e) Provisions for acting as the designated liaison with health care facilities regarding communicable disease or condition exposure notification. The designated liaison should coordinate with other department members to fulfill the role when the designated liaison is not available. The designated liaison shall ensure that the name, title, and telephone number of the designated liaison is posted on the Department 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.

809.4 EXPOSURE PREVENTION AND MITIGATION

809.4.1 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:

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

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- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing, portable radio) as soon as possible if the equipment is a potential source of exposure.
 - 1. Clothing that has been contaminated by blood, urine, 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.

809.4.2 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).

809.5 POST EXPOSURE

809.5.1 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 exposed skin with soap and water, flush mucous membranes with water).
- (b) Obtain medical attention as appropriate.
- (c) Notify a supervisor as soon as practicable.

809.5.2 REPORTING REQUIREMENTS

The supervisor or designated administrator on-duty shall investigate every exposure or suspected exposure that occurs as soon as possible following the incident. The supervisor or designated administrator shall ensure the following information is documented:

- (a) Name and Social Security number of the member exposed
- (b) Date and time of the incident
- (c) Location of the incident
- (d) Potentially infectious materials involved and the source of exposure (e.g., identification of the person who may have been the source)
- (e) Work being done during exposure
- (f) How the incident occurred or was caused
- (g) PPE in use at the time of the incident
- (h) Actions taken post-event (e.g., cleanup, notifications)

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The supervisor or designated administrator 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 or designated administrator should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting and Illness and Injury Prevention policies).

809.5.3 MEDICAL CONSULTATION, EVALUATION, AND TREATMENT

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

The ECO should request a written opinion/evaluation from the treating health care 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 that require further evaluation or treatment.

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

809.5.4 COUNSELING

The Department shall provide the member, and the member's family if necessary, the opportunity for counseling and consultation regarding the exposure.

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

Source testing may be achieved by:

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

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- (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 the individual refuses.

809.6 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.

809.7 TRAINING

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (8 CCR 5193; 8 CCR 5199):

- (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 the member's 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

810.1 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 San Benito County Probation Department facilities or vehicles.

For the purpose of this policy, smoking and tobacco use includes but is not limited to any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches, and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

810.2 POLICY

The San Benito County Probation Department recognizes that tobacco use is a health risk and that smoking and tobacco use can be offensive to others. Smoking and tobacco use also present an unprofessional image for the Department and its members. Therefore, smoking and tobacco use are prohibited in all department facilities, buildings, and vehicles, as further outlined in this policy. This prohibition applies to members and visitors.

810.3 SMOKING AND TOBACCO USE

It shall be the responsibility of each member to ensure that no person under the member's supervision smokes or uses any tobacco product inside County facilities and vehicles.

810.4 ADDITIONAL PROHIBITIONS

Smoking and use of other tobacco products is not permitted inside department buildings or any department vehicle, or any other county building (Labor Code § 6404.5).

No person shall smoke or use tobacco products within 20 feet of a main entrance, exit, or operable window of any public building, including any department buildings or a building 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.).

Personnel Complaints

811.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation, and disposition of complaints regarding the conduct of members of the San Benito County Probation Department. 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.

811.2 POLICY

The San Benito County Probation Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state, and local law, municipal and county rules, and the requirements of any collective bargaining agreements or memorandums of understanding.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

811.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or 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 department 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 Department.

811.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Supervisor is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Assistant Chief Probation Officer, 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 assigned supervisor or the Assistant Chief Probation Officer, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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811.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person, or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

811.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

811.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the department facility and be accessible through the department website. Forms may also be available at other County facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

811.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs, or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of the statement at the time it is filed with the Department (Penal Code § 832.7).

811.4.3 HATE COMPLAINTS AGAINST PEACE OFFICERS

The Department shall accept and investigate internal complaints or complaints from the public that allege an officer has, in the previous seven years and since age 18, was a member of a hate group, participated in a hate group activity, or advocated any public expression of hate (Penal Code § 13682).

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811.4.4 AVAILABILITY OF WRITTEN PROCEDURES

The Department shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

811.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Chief Probation Officer or the authorized designee.

811.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

811.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief Probation Officer or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - 1. The original complaint form will be directed to the Supervisor of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
 - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Supervisor or the Chief Probation Officer, who will initiate appropriate action.
- (b) Responding to all complainants in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. Follow-up contact with the complainant should be made within 24 hours of the Department receiving the complaint.
 - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Chief Probation Officer.

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- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Supervisor and the Chief Probation Officer are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Human Resources Department and the Supervisor for direction regarding the supervisor's role 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 Supervisor, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses, and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the 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.

811.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or the Assistant Chief Probation Officer, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights (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 off-duty, the member shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the San Benito County Probation Department 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 should be informed of the nature of the investigation, the name, rank, and command of the officer 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.

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1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
 2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (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, 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 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 officer solely because the officer has been placed on a prosecutor's *Brady* list or because the name of the officer 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 officer has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

811.6.3 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.

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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.

811.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded (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 officer were found to violate law or department 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.

811.6.5 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.

811.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The member conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

811.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces, and other areas, including desks, offices, and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

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Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio, or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence; with the member's consent; with a valid search warrant; or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

811.7.1 DISCLOSURE OF FINANCIAL INFORMATION

An officer 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 officer is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements

811.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief Probation Officer or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons, and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

811.9 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 Probation Officer shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief Probation Officer may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of the member's constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

The San Benito County Probation Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

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811.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief Probation Officer through the chain of command. Each level of command should review the report and include comments in writing before forwarding the report. The Chief Probation Officer may accept or modify any classification or recommendation for disciplinary action.

811.10.1 SUPERVISOR RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Supervisor of the involved member shall review the entire investigative file, the member's personnel file, and any other relevant materials.

The Supervisor may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief Probation Officer, the Supervisor may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief Probation Officer, the Supervisor 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.

811.10.2 CHIEF PROBATION OFFICER RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief Probation Officer shall review the recommendation and all accompanying materials. The Chief Probation Officer may modify any recommendation and/or may return the file to the Supervisor for further investigation or action.

Once the Chief Probation Officer is satisfied that no further investigation or action is required by staff, the Chief Probation Officer shall determine the amount of discipline, if any, that should be imposed. If disciplinary action is proposed, the Chief Probation Officer shall provide the member with a pre-disciplinary procedural due process hearing (*Skelly*) by providing written notices 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 Probation Officer shall also provide the member with:

- (a) Access to all the materials considered by the Chief Probation Officer in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief Probation Officer within five days of receiving the notice.
 1. Upon a showing of good cause by the member, the Chief Probation Officer may grant a reasonable extension of time for the member to respond.
 2. If the member elects to respond orally, the presentation shall be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

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Once the member has completed a response, or if the member has elected to waive any such response, the Chief Probation Officer shall consider all information received regarding the recommended discipline. The Chief Probation Officer shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief Probation Officer has issued a written decision, the discipline shall become effective.

811.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT

The Chief Probation Officer 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)).

811.10.4 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)).

811.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief Probation Officer after having had an opportunity to review the supporting materials and before any recommended discipline is imposed. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted, or the employee may offer any additional information or mitigating factors for the Chief Probation Officer to consider.
- (d) In the event that the Chief Probation Officer elects to conduct further investigation, the employee shall be provided with the results before any discipline is imposed.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief Probation Officer on the limited issues of information raised in any subsequent materials.

811.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement before the discipline is imposed, 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.

811.13 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

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appeal using the procedures established by any collective bargaining agreement, memorandum of understanding, and/or personnel rules.

In the event of punitive action against an officer 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 officer 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).

811.14 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 officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief Probation Officer or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief Probation Officer shall be final.

811.15 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.

Seat Belts

812.1 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 department vehicles.

812.1.1 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 and Vehicle Code § 27360.

812.2 POLICY

It is the policy of the San Benito County Probation Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle accident.

812.3 WEARING 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 department while on- or off-duty, or in any privately owned vehicle while on-duty. The member driving such a vehicle shall confirm that all other occupants, including those who are not members of the Department, are 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 department member or the public. Members must be prepared to justify any deviation from this requirement.

812.4 TRANSPORTING CHILDREN

Child passengers younger than 8 years old shall be transported using an approved child restraint system in compliance with Vehicle Code § 27360.

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.

812.5 TRANSPORTING PERSONS IN CUSTODY

Persons in custody should be in a seated position and secured in the rear seat of any department vehicle with a transport restraint system or, when a transport restraint system is not available, by seat belts provided by the vehicle manufacturer. The transport restraint system is not intended

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to be a substitute for handcuffs or other appendage restraints. See the Transporting Persons in Custody Policy.

Persons in custody in leg restraints shall be transported in accordance with the Handcuffing and Restraints Policy.

812.6 INOPERABLE SEAT BELTS

Department 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.

Department 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 Probation Officer.

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.

812.7 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.

812.8 VEHICLE AIRBAGS

In all vehicles equipped with airbag systems, the system will not be tampered with or deactivated. 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.

Personnel Records

813.1 PURPOSE AND SCOPE

This policy governs maintenance of and access to personnel records. Personnel records include any file maintained under an individual member's name.

813.2 POLICY

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the constitution and laws of California (Penal Code § 832.7).

813.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department 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 maintained.
- (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 department 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.

813.4 DIVISION MAJOR FILE

Division files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The Division file may contain supervisor comments, notes, notices to correct, and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

All materials intended for this interim file shall be provided to the employee before being placed in the file in accordance with Government Code § 3305 and Government Code § 3306.

813.5 TRAINING FILE

The Training Manager shall maintain an individual training file 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 Training Manager or the member's immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Manager or supervisor shall ensure that copies of such training records are placed in the member's training file.

813.6 ASSISTANT CHIEF PROBATION OFFICER FILE

Internal affairs files shall be maintained under the exclusive control of the Assistant Chief Probation Officer in conjunction with the office of the Chief Probation Officer. Access to these files may be approved only by the Chief Probation Officer or the Assistant Chief Probation Officer.

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 department 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 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 department 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).

813.7 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.

813.8 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 Administrative Officer, County Counsel, or other attorneys or representatives of the County in connection with official business.

813.9 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Administrative Services Specialist or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

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The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

813.9.1 REQUESTS FOR DISCLOSURE OF FORMER EMPLOYEE FILES

Members receiving requests for information from another agency regarding allegations of sexual abuse or sexual harassment involving a former employee should work with counsel to ensure compliance with Prison Rape Elimination Act (PREA) requirements (28 CFR 115.317).

813.9.2 RELEASE OF PERSONNEL INFORMATION

Personnel records shall not be disclosed except as allowed by law (see the Records Maintenance and Release Policy) (Penal Code § 832.7; Evidence Code § 1043).

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

The Department 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).

813.9.3 RELEASE OF LAW ENFORCEMENT GANG INFORMATION

Information relating to the termination of an officer from this department for participation in a law enforcement gang shall be disclosed to another law enforcement agency that is conducting a preemployment background investigation except where specifically prohibited by law (Penal Code § 13670).

813.9.4 RELEASE OF PEACE OFFICER RECORDS RELATING TO HATE COMPLAINTS

Records relating to the investigation of an officer for a hate complaint described in Penal Code § 13682, with a sustained finding that the officer was a member of a hate group, participated in a hate group activity, or advocated public expressions of hate, are not confidential. These records shall be made available for public inspection through a public records request (Penal Code § 13683).

Records disclosed may be redacted (Penal Code § 13683):

- (a) To remove personal data or information, such as a home address, telephone number, email address, or identities of family members.
- (b) To preserve the anonymity of complainants and witnesses.
- (c) To protect confidential medical, financial, or other information of which disclosure is specifically prohibited by federal law or would cause an unwarranted invasion of

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personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force by officers.

- (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 officer or another person.

813.10 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 Probation Officer through the chain of command. The Department 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 Department 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 Department 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 Department and the member that may be discovered in a judicial proceeding

813.11 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,

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if any, to progressive discipline, training, and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.

- (b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief Probation Officer.
- (c) If, in the opinion of the Chief Probation Officer, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

813.12 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS

Personnel records and records related to certain incidents, complaints, and investigations of officers 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 Administrative Services Specialist should work as appropriate with the Chief Probation Officer or the Assistant Chief Probation Officer in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(3)):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, whether the officer's action was consistent with law and department 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 referred to as "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)):

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- (a) Records relating to the report, investigation, or findings of:
 - 1. The discharge of a firearm at another person by an officer.
 - 2. The use of force by an officer against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)).
 - 3. A sustained finding involving a complaint that alleges unreasonable or excessive force.
 - 4. A sustained finding that an officer failed to intervene against another officer using force that is clearly unreasonable or excessive.
- (b) Records relating to an incident where a sustained finding was made by the department or oversight agency regarding:
 - 1. An officer engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
 - 2. Dishonesty of an officer relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of or investigation of misconduct by another officer, including but not limited to any false statements, filing false reports, destruction, falsifying, or concealing of evidence, or perjury.
 - 3. An officer 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 officer made an unlawful arrest or conducted an unlawful search.

Qualifying records will be made available regardless of whether the officer resigns before the department or an oversight agency concludes its investigation (Penal Code § 832.7(b)(3)).

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(4)).

When an investigation involves multiple officers, the department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer 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 officer during an incident or the statements of an officer shall be released if the statements are relevant to a finding of a qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(5)).

813.12.1 REDACTION

The Administrative Services Specialist, in consultation with the Chief Probation Officer or the 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 officers

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- (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 officer 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)).

813.12.2 DELAY OF RELEASE

Unless otherwise directed by the Chief Probation Officer, the Administrative Services Specialist should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of qualifying records due to any of the following conditions (Penal Code § 832.7):

- (a) Active criminal investigations
 1. Disclosure may be delayed 60 days from the date the misconduct or use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.
 2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer or against someone other than an officer who engaged in misconduct or used the force.
- (b) Filed criminal charges
 1. When charges are filed related to an incident in which misconduct occurred or force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.
- (c) Administrative investigations
 1. Disclosure may be delayed until there is a determination from the investigation whether misconduct or the use of force violated law or department policy, but no longer than 180 days after the date of the department's discovery of the misconduct or use of force or allegation of misconduct or use of force.

813.12.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of qualifying records, the Administrative Services Specialist shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

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- (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 officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Department 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 officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 7923.000, the Department 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)).

Commendations and Awards

814.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the San Benito County Probation Department and individuals from the community.

814.2 POLICY

It is the policy of the San Benito County Probation Department 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.

814.3 COMMENDATIONS

Commendations for members of the Department or for individuals from the community may be initiated by any department member or by any person from the community.

814.4 CRITERIA

A meritorious or commendable act may include but is not limited to:

- (a) Superior handling of a difficult situation.
- (b) Conspicuous bravery or outstanding performance.
- (c) Any action or performance that is above and beyond typical duties.

814.4.1 DEPARTMENT MEMBER DOCUMENTATION

Members of the Department should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
 - 1. For members of the Department - name, Division, 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 any associated reports or case numbers, as appropriate.
- (c) The signature of the member submitting the documentation.

814.4.2 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. Department members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

- (a) Identifying information:
 - 1. For members of the Department - name, Division, and assignment at the date and time of the meritorious or commendable act

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2. For individuals from the community - name, address, telephone number
 - (b) A brief account of the meritorious or commendable act with any associated reports or case numbers, as appropriate.
 - (c) The signature of the person submitting the documentation.

814.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the Department should be forwarded to the appropriate Supervisor for review. The Supervisor should sign and forward the documentation to the Chief Probation Officer for review.

The Chief Probation Officer or the authorized designee will present the commendation to the department member for signature. The documentation will then be returned to the Administrative Services Specialist for entry into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Supervisor. The documentation will be signed by the Assistant Chief Probation Officer and forwarded to the Chief Probation Officer for review. An appropriate venue or ceremony to acknowledge the individual's actions should be arranged. Documentation of the commendation should be maintained in a file designated for such records.

814.5 AWARDS

Awards may be bestowed upon members of the Department and individuals from the community. These awards include:

- (a) Award of Valor.
- (b) Award of Merit.
- (c) Lifesaving Award.
- (d) Meritorious Conduct.

Criteria for each award and the selection, presentation, and display of any award are determined by the Chief Probation Officer.

Fitness for Duty

815.1 PURPOSE AND SCOPE

Monitoring members' fitness for duty is essential for the safety and welfare of the members of the Department and the community. The purpose of this policy is to ensure that all members of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

815.2 POLICY

The San Benito County Probation Department strives to provide a safe and productive work environment and ensure that all members of this department can safely and effectively perform the essential functions of their jobs. Under limited circumstances, the Department may require a professional evaluation of a member's physical, mental, and/or emotional capabilities to determine the member's ability to perform essential functions.

815.3 MEMBER RESPONSIBILITIES

It is the responsibility of each member of this department to maintain physical stamina and psychological stability sufficient to safely and effectively perform the essential duties of the member's position.

During working hours, all members are required to be alert, attentive, and capable of performing their assigned responsibilities.

Any member who feels unable to perform the member's duties shall promptly notify a supervisor. If a member believes another member is unable to perform that member's duties, such observations and/or belief shall be promptly reported to a supervisor.

815.4 SUPERVISOR RESPONSIBILITIES

All supervisors should be alert to any indication that a member may be unable to safely perform any duties because of an underlying physical or psychological impairment or condition.

Such indications may include:

- (a) An abrupt and negative change in the member's normal behavior.
- (b) A pattern of irrational conduct, hostility, or oppositional behavior.
- (c) Personal expressions of instability.
- (d) Inappropriate use of alcohol or other substances, including prescribed medication.
- (e) A pattern of questionable judgment or impulsive behavior, or the inability to manage emotions.
- (f) Any other factor or combination of factors causing a supervisor to believe the member may be suffering from an impairment or a condition requiring intervention.

Consistent with this policy, supervisors shall maintain the confidentiality of any information.

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815.4.1 REPORTING

A supervisor observing a member or receiving a report about a member perceived to be unable to safely or effectively perform duties shall promptly document all objective information and/or observations.

The supervisor should attempt to meet with the member to inquire about the conduct or behavior giving rise to the concerns.

If a meeting does not resolve the supervisor's concerns or does not take place, the supervisor shall promptly document the observations and actions in a written report and inform the member's Supervisor, Assistant Chief Probation Officer or Chief Probation Officer.

815.4.2 DUTY STATUS

In conjunction with the Assistant Chief Probation Officer and Chief Probation Officer, the Supervisor should make a preliminary determination regarding the member's duty status.

If a determination is made that the member can safely and effectively perform the essential functions of the job, the member should be returned to duty and arrangements made for appropriate follow-up.

If a preliminary determination is made that the member's conduct or behavior represents an inability to safely and effectively perform the essential functions of the job, the Assistant Chief Probation Officer, the member's Supervisor, or the authorized designee should immediately relieve the member of duty pending further evaluation.

Members relieved of duty shall comply with the administrative leave provisions of the Personnel Complaints Policy.

The Assistant Chief Probation Officer and Chief Probation Officer, or the authorized designee, shall be promptly notified in the event that any member is relieved of duty.

815.5 FITNESS-FOR-DUTY EVALUATIONS

A fitness-for-duty evaluation may be ordered whenever circumstances reasonably indicate that a member may be unfit for duty or following an officer-involved shooting or death-in-custody incident.

815.5.1 PROCESS

The Supervisor, Assistant Chief Probation Officer or Chief Probation Officer, in cooperation with Human Resources Department, may order the member to undergo a fitness-for-duty evaluation.

The examining practitioner will provide the Department with a report indicating whether the member is fit for duty. If the member is not fit for duty, the practitioner will include the existing restrictions or conditions in the report. If the member places their condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any information relevant to such proceedings (Civil Code § 56.10(c)(8)).

To facilitate the evaluation of any member, the Department will provide all appropriate documents and available information.

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All reports and evaluations submitted by the examining practitioner shall be part of the member's confidential medical file.

Any member ordered to undergo a fitness-for-duty evaluation shall comply with the terms of the order and cooperate fully with the examining practitioner.

Determinations regarding duty status of members who are found to be unfit for duty or fit for duty with limitations will be made in cooperation with Human Resources Department.

815.6 LIMITATION ON HOURS WORKED

Absent emergency operations, members should not work more than:

- (a) 16 hours in a one-day (24 hours) period.
- (b) 30 hours in any two-day (48 hours) period.
- (c) 84 hours in any seven-day (168 hours) period.

Except in unusual circumstances, members should have a minimum of eight hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve any member who has exceeded the above guidelines to off-duty status.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime, and any other work assignments.

815.7 APPEALS

Employees disputing the application or interpretation of this policy may submit a grievance as provided in the Grievances Policy.

Meal Periods and Breaks

816.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the availability of meal periods and breaks.

816.2 POLICY

It is the policy of the San Benito County Probation Department to provide meal periods and breaks to members of this department in accordance with the collective bargaining agreement or memorandum of understanding and the [County of San Benito Personnel Policies and Procedures Handbook, 6.8.4](#).

Lactation Breaks

817.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to members desiring to express breast milk for the member's infant child (Labor Code § 1034).

817.2 POLICY

It is the policy of the San Benito County Probation Department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any member desiring to express breast milk for their infant nursing child (29 USC § 218d).

817.3 LACTATION BREAK TIME

A rest period should be permitted each time the member has the need to express breast milk (29 USC § 218d; 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 member's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Members desiring to take a lactation break shall notify a supervisor before taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt department operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

817.4 PRIVATE LOCATION

The Department will make reasonable efforts to accommodate members with the use of an appropriate room or other location to express milk in private. Such room or place should be in proximity to the member's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from coworkers and the public (29 USC § 218d; Labor Code § 1031).

Members occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other members should avoid interrupting a member during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for members assigned to the field may be taken at the nearest appropriate private area.

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817.5 STORAGE OF EXPRESSED MILK

Any member storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the member's shift ends.

817.6 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

818.1 PURPOSE AND SCOPE

This policy provides the guidelines for completing and submitting payroll records of department members who are eligible for the payment of wages.

818.2 POLICY

The San Benito County Probation Department maintains timely and accurate payroll records.

818.3 RESPONSIBILITIES

Members are responsible for the accurate completion and timely submission of their payroll records for the payment of wages.

Supervisors are responsible for approving the payroll records for those under their direction.

818.4 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 the Administrative Services as established by the County payroll procedures.

818.5 RECORDS

The Administrative Services Specialist 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

819.1 PURPOSE AND SCOPE

This policy establishes guidelines and procedures regarding overtime for employees, in conformance with the Fair Labor Standards Act (FLSA) (29 USC § 201 et seq.).

819.2 POLICY

The San Benito County Probation Department will compensate nonexempt employees who work authorized overtime either by payment of wages or by the accrual of compensatory time (29 CFR 553.22). Employees who are salary exempt from FLSA are not compensated for overtime worked.

819.3 COMPENSATION

Payment of wages to nonexempt employees for overtime, or accrual of compensatory time in lieu of compensation for overtime worked, shall be at the rate of not less than one and one-half hours for each hour of employment for which overtime compensation is required (29 USC § 207(k)(2); 29 USC § 207(o)(1)).

Short periods of overtime worked at the end of the normal duty day (e.g., less than one hour in duration) may be handled informally by an agreement between the supervisor and the employee. In such cases, the supervisor shall document the overtime worked and schedule a subsequent shift adjustment within the same work period that the overtime was worked, rather than submit a request for overtime compensation (29 USC § 207(k)).

Salary exempt employees may be eligible for administrative leave, which may be granted at the discretion of the exempt employee's immediate supervisor.

819.4 REQUESTS FOR OVERTIME COMPENSATION

819.4.1 EMPLOYEE RESPONSIBILITIES

Generally, no employee is authorized to work overtime without the prior approval of a supervisor. If circumstances do not permit prior approval, approval shall be sought as soon as practicable during the overtime shift and in no case later than the end of the shift in which the overtime is worked.

Nonexempt employees shall:

- (a) Obtain supervisory approval, verbal or written.
- (b) Not work in excess of 16 hours, including regularly scheduled work time, overtime, and extra-duty time, in any consecutive 24-hour period without supervisory approval.
- (c) Record the actual time worked in an overtime status using the department-approved form or method. Informal notations on reports, logs, or other forms not approved for overtime recording are not acceptable.
- (d) Submit the request for overtime compensation to their supervisors by the end of shift or no later than the next calendar day.

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819.4.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall:

- (a) Prior to authorizing an employee to work overtime, evaluate the need for the overtime.
 1. Supervisors should not authorize any request to work overtime if the overtime would not be an appropriate use of department resources.
- (b) Upon receipt of a request for overtime compensation, confirm that the overtime was authorized and then verify the actual time worked.
 1. Supervisors identifying any unauthorized overtime or discrepancy shall initiate an investigation consistent with the Personnel Complaints Policy.
- (c) After verifying and approving the overtime amount, promptly forward the request for compensation to the employee's Supervisor for final approval.
 1. After the Supervisor has authorized compensation, the request shall be submitted to Administrative Services as soon as practicable.

Supervisors may not authorize or approve their own overtime.

819.5 ACCOUNTING FOR PORTIONS OF AN HOUR

Authorized overtime work shall be accounted in the increments as listed:

TIME WORKED	INDICATE ON CARD
Up to 15 minutes	.25 hour
16 to 30 minutes	.50 hour
31 to 45 minutes	.75 hour
46 to 60 minutes	1 hour

819.5.1 VARIATION IN TIME REPORTED

When two or more employees are assigned to the same activity, case or court trial, and the amount of time for which overtime compensation is requested varies among the officers, the approving supervisor or the Assistant Chief Probation Officer may require each employee to include the reason for the variation on the overtime compensation request.

819.6 REQUESTING USE OF COMPENSATORY TIME

Employees who have accrued compensatory time shall be allowed to use that time for time off within a reasonable period after making a request if the request does not unduly disrupt department operations. Requests to use compensatory time will be submitted to the employee's supervisor at least 24 hours in advance of its intended use. Supervisors may make exceptions in unusual or extraordinary circumstances.

Compensatory time may not be used for time off for a date and time when the employee is required to appear in court on department-related matters. Supervisors shall not unreasonably deny employee requests to use compensatory time (29 CFR 553.25).

Outside Employment and Outside Overtime

820.1 PURPOSE AND SCOPE

This policy provides guidelines for department members who seek to engage in authorized outside employment or outside overtime.

820.1.1 DEFINITIONS

Definitions related to this policy include:

Outside employment - Duties or services performed by members of this department for another employer, organization, or individual not affiliated directly with this department when wages, compensation, or other consideration for such duties or services is received. Outside employment also includes duties or services performed by those members who are self-employed and receive compensation or other consideration for services, products, or benefits rendered.

Outside overtime - Duties or services performed by members of this department for a private organization, entity, or individual that are requested and scheduled directly through the Department. Member compensation, benefits, and costs for such outside services are reimbursed to the Department.

820.2 POLICY

Members of the San Benito County Probation Department shall obtain written approval from the Chief Probation Officer or the authorized designee before engaging in any outside employment or outside overtime. Approval of outside employment or overtime shall be at the discretion of the Chief Probation Officer or the authorized designee in accordance with the provisions of this policy. Failure to obtain prior written approval for outside employment or overtime, or engaging in outside employment or overtime that is prohibited by this policy, may lead to disciplinary action. See [County of San Benito Personnel Policies and Procedures Handbook, 6.12.11\(d\), Incompatible Activities](#) for additional information.

820.3 OUTSIDE EMPLOYMENT

820.3.1 REQUEST AND APPROVAL

Members must submit the designated outside employment request form to their immediate supervisors. The request form will then be forwarded through the chain of command to the Chief Probation Officer or the authorized designee for consideration.

If approved, the member will be provided with a copy of the approved request form. Unless otherwise indicated in writing on the request form, approval for outside employment will be valid through the end of the calendar year in which the request is approved. Members seeking to continue outside employment must submit a new request form at the start of each calendar year.

820.3.2 DENIAL

Any member whose request for outside employment has been denied shall be provided with a written notification of the reason at the time of the denial (Penal Code § 70(e)(3)).

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820.3.3 REVOCATION OR SUSPENSION

Any member whose approval for outside employment is revoked or suspended shall be provided with a written notification of the reason for revocation or suspension (Penal Code § 70(e)(3)).

Approval for outside employment may be revoked or suspended:

- (a) When a supervisor determines the member's performance is failing to meet standards and the outside employment may be related to the deficient performance.
 - 1. Approval for the outside employment may be reestablished with the authorization of the member's supervisor once the member's performance has reached a satisfactory level.
- (b) When a member's conduct or outside employment conflicts with department policy or any law.
- (c) When the outside employment creates an actual or apparent conflict of interest with the Department or County.

820.3.4 APPEAL

If a member's request for outside employment is denied or if previous approval is revoked or suspended, the member may file a written notice of appeal with the Chief Probation Officer or the authorized designee within 10 days of receiving notice of the denial, revocation, or suspension.

A revocation or suspension will only be implemented after the member has completed the appeal process.

If the member's appeal is denied, the member may file a grievance as provided in the Grievances Policy.

820.4 REQUIREMENTS

820.4.1 PROHIBITED OUTSIDE EMPLOYMENT

The Department reserves the right to deny any request for outside employment that involves (Government Code § 1126):

- (a) The use of department time, facilities, equipment, or supplies.
- (b) The use of the San Benito County Probation Department badge, uniform, or influence for private gain or advantage.
- (c) The member's receipt or acceptance of any money or other consideration for performing duties or services that the member would be required or expected to render in the course or hours of the member's employment or appointment, or as a part of the member's regular duties.
- (d) The performance of duties or services that may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other member of this department.
- (e) Demands upon the member's time that would render the performance of the member's duties for this department deficient or substandard.

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- (f) Activities that may conflict with any other policy or rule of the Department.

820.4.2 DEPARTMENT RESOURCES

Members are prohibited from using any department equipment or resources in the course of, or for the benefit of, any outside employment. This shall include the prohibition against any member using a position with this department to gain access to official records or databases of this department or other agencies.

820.4.3 REVIEW OF FINANCIAL RECORDS

Members approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflicts of interest (Government Code § 3308; Government Code § 1126).

Before approving outside employment, the Department may request that a member provide personal financial records for review if the Chief Probation Officer determines that a conflict of interest may exist. Failure or refusal by the member to provide such records may result in denial of the outside employment.

If, after approving a request for outside employment, the Department obtains information that a financial conflict of interest exists, the Department may request that the member provide personal financial records for review. Failure or refusal by the member to provide such records may result in revocation or suspension of approval of the outside employment pursuant to this policy.

820.4.4 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If a member terminates outside employment, the member shall promptly submit written notification of such termination to the Chief Probation Officer or the authorized designee through the chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through the procedures set forth in this policy.

Members shall also promptly submit in writing to the Chief Probation Officer or the authorized designee any material changes in outside employment, including any change in the number of hours, type of duties, or the demands of any approved outside employment. Members who are uncertain whether a change in outside employment is material are advised to report the change.

820.4.5 LEAVE OR RESTRICTED DUTY STATUS

Members who are placed on leave or other restricted duty status shall inform their immediate supervisors in writing within five days as to whether they intend to continue their outside employment while on such leave or restricted status. The immediate supervisor shall review the duties of the outside employment, along with any related orders (e.g., administrative, medical), and make a recommendation to the Chief Probation Officer or the authorized designee regarding whether such employment should continue.

In the event that the Chief Probation Officer or the authorized designee determines that the outside employment should be discontinued, or if the member fails to promptly notify the immediate supervisor of the member's intention regarding outside employment, a notice revoking approval

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of the outside employment will be forwarded to the member and a copy attached to the original outside employment request form.

Criteria for revoking approval due to leave or restricted duty status include but are not limited to:

- (a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the County's medical professional advisers.
- (b) The outside employment requires performance of the same or similar physical ability as required of an on-duty member.
- (c) The member's failure to make timely notice of the member's intention to the supervisor.

When the member returns to full duty with the San Benito County Probation Department, a written request may be submitted to the Chief Probation Officer or the authorized designee to approve the outside employment request.

820.5 OUTSIDE OVERTIME

820.5.1 REQUESTS FOR SPECIAL SERVICES

Any private organization, entity, or individual seeking special services (e.g., security, traffic control) from members of this department must submit a written request to the Chief Probation Officer or the authorized designee before the desired service. Such services will be assigned, monitored, and compensated through the Department as outside overtime assignments.

- (a) A request for special services during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute will not be approved.
- (b) The requester will be required to enter into an agreement that includes indemnification with the Department prior to approval.
- (c) The requester will be required to reimburse the Department for the members' compensation, benefits, and costs (e.g., court time) associated with such outside services.
- (d) Should such a request be approved, any member working outside overtime shall be subject to the following conditions:
 - 1. The member shall wear the department uniform and carry department identification.
 - 2. The member shall be subject to the rules and regulations of this department.
 - 3. Compensation for such approved outside overtime shall follow normal overtime procedures (see the Overtime Compensation Policy).
 - 4. Outside overtime shall not be subject to the collective bargaining process.
- (e) Outside overtime shall be assigned at the discretion of the Chief Probation Officer or the authorized designee.

820.5.2 ARREST AND REPORTING PROCEDURE

Any officer making an arrest or taking other official law enforcement action while working in an outside overtime assignment shall be required to complete all related reports in a timely manner

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pursuant to the Report Preparation Policy. Time spent completing such reports shall be considered part of the outside overtime assignment.

820.5.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Chief Probation Officer, undercover officers or officers assigned to covert operations shall not be eligible to work outside overtime in a uniformed or other capacity that could reasonably disclose the officer's law enforcement status.

Occupational Disease and Work-Related Injury Reporting

821.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding timely reporting of occupational diseases, mental health issues, and work-related injuries.

821.1.1 DEFINITIONS

Definitions related to this policy include:

Occupational disease or work-related injury - Any injury, disease, or mental health issue arising out of the member's employment (Labor Code § 3208; Labor Code § 3208.3; Labor Code § 3212 et seq.).

821.2 POLICY

The San Benito County Probation Department will address work-related injuries and occupational disease appropriately and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.). See [County of San Benito Personnel Policies and Procedures Handbook, 6.11.4\(a\)](#) for additional information.

821.3 RESPONSIBILITIES

821.3.1 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).

821.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any work-related injury or occupational disease should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related County-wide injury- or disease-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.

821.3.3 SUPERVISOR RESPONSIBILITIES

The supervisor who receives a report of an occupational disease or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief Probation Officer or authorized designee, the County's risk management entity, and the Administrative Services Supervisor to ensure any required Division

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of Occupational Safety and Health (Cal/OSHA) reporting is made as required in the disease and injury prevention plan identified in the Illness and Injury Prevention Policy.

821.3.4 CHIEF PROBATION OFFICER RESPONSIBILITIES

The Chief Probation Officer shall review and forward copies of the report to the Human Resources Department. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

821.4 OTHER DISEASE OR INJURY

Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate Supervisor through the chain of command and a copy sent to the Chief Probation Officer or the authorized designee.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that the member desired no medical attention at the time of the report. Signing the report does not preclude the member's ability to later seek medical attention.

Personal Appearance Standards

822.1 PURPOSE AND SCOPE

This policy provides guidelines for the personal appearance of members of the San Benito County Probation Department.

Requirements for department uniforms and civilian attire are addressed in the Uniforms and Civilian Attire Policy.

822.2 POLICY

San Benito County Probation Department members shall maintain their personal hygiene and appearance to project a professional image that is appropriate for this department and for their assignments. Department personal appearance standards are primarily based on safety requirements, appearance conformity, and the social norms of the community served, while considering matters important to members of the Department.

822.3 GROOMING

Unless otherwise stated and because deviations from these standards may present officer safety issues, the following appearance standards shall apply to all members, except those whose current assignments would deem them not applicable, and where the Chief Probation Officer has granted an exception.

822.3.1 PERSONAL HYGIENE

All members must maintain proper personal hygiene. Examples of improper personal hygiene include but are not limited to dirty fingernails, bad breath, body odor, and dirty or unkempt hair. Any member who has a condition due to a protected category (e.g., physical disability, cultural) that affects any aspect of personal hygiene covered by this policy may qualify for an accommodation and should report any need for an accommodation to the Chief Probation Officer.

822.3.2 FINGERNAILS

Fingernails shall be clean and neatly trimmed to a length that will not present a safety concern. The color of fingernail polish shall present a professional image.

822.4 APPEARANCE

822.4.1 JEWELRY

For the purpose this policy, jewelry refers to rings, earrings, necklaces, bracelets, wristwatches, and tie tacks or tie bars. Jewelry shall present a professional image and may not create a safety concern for the department member or others. Jewelry that depicts racial, sexual, discriminatory, gang-related, or obscene language is not allowed.

822.4.2 TATTOOS

While on-duty or representing the San Benito County Probation Department in any official capacity, members should make every reasonable effort to conceal tattoos or other body art. At no time

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while the member is on-duty or representing the Department in any official capacity shall any offensive tattoo or body art be visible. Examples of offensive tattoos include but are not limited to those that exhibit or advocate discrimination; those that exhibit gang, supremacist, or extremist group affiliation; and those that depict or promote drug use, sexually explicit acts, or other obscene material.

822.4.3 BODY PIERCING OR ALTERATION

Body piercing (other than earlobes) or alteration to any area of the body that is visible while on-duty or while representing the San Benito County Probation Department in any official capacity, that is a deviation from normal anatomical features and that 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 (i.e., foreign objects inserted under the skin to create a design or pattern).
- (c) Abnormal shaping of the ears, eyes, nose, or teeth (i.e., enlarged or stretched out holes in the earlobes).
- (d) Branding, scarification, or burning to create a design or pattern.

822.4.4 DENTAL ORNAMENTATION

Dental ornamentation that is for decorative purposes and that is not medically required is prohibited while on-duty or while representing the San Benito County Probation Department in any official capacity. Such ornamentation includes but is not limited to:

- (a) Objects that are bonded to front teeth.
- (b) Gold, platinum, or other veneers or caps used for decorative purposes.
- (c) Orthodontic appliances that are colored for decorative purposes.

822.4.5 GLASSES AND CONTACT LENSES

Eyeglasses and sunglasses shall be conservative and present a professional image. Contact lenses with designs that change the normal appearance of the eye and that are not medically required are prohibited while on-duty or while representing the San Benito County Probation Department in any official capacity.

822.4.6 COSMETICS AND FRAGRANCES

Cosmetics shall be conservative and present a professional image. Use of cologne, perfume, aftershave lotion, and other items used for body fragrance shall be kept to a minimum.

822.4.7 UNDERGARMENTS

Proper undergarments shall be worn as necessary for reasons of hygiene and general appearance standards.

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822.5 RELIGIOUS ACCOMMODATION

The religious beliefs and needs of department members should be reasonably accommodated. 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 Chief Probation Officer should be advised any time a request for religious accommodation is denied.

Those who request to wear headscarves, simple head coverings, certain hairstyles, or facial hair for religious reasons should generally be accommodated absent unusual circumstances.

822.6 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief Probation Officer 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.

Uniforms and Civilian Attire

823.1 PURPOSE AND SCOPE

This policy provides guidelines and requirements for civilian attire and San Benito County Probation Department-authorized uniforms. The purpose of this policy is to ensure that uniformed members are readily identifiable to the public through the proper use and wearing of department uniforms, and that the appearance of those members who wear civilian attire reflects favorably on the Department.

This policy addresses wearing and maintaining department uniforms, accessories, insignia, patches, and badges. It also covers the requirements for members who wear civilian attire, plus the authorized use of optional equipment and accessories by department members.

Other related topics, including authorized and unauthorized use of badges, lost or stolen badges, and the use of the badge or its likeness by employee groups, are addressed in the Badges, Patches, and Identification, Department-Owned and Personal Property, and Personal Appearance Standards policies.

823.2 POLICY

The San Benito County Probation Department will provide uniforms to all employees who are required to wear them in the manner, quantity, and frequency agreed upon in the respective employee group's collective bargaining agreement or memorandum of understanding. The Department may provide other department members with uniforms at the direction of the Chief Probation Officer.

All uniforms and equipment issued to department members shall be returned to the Department upon termination or resignation.

The San Benito County Probation Department may provide a clothing allotment for members to purchase and maintain civilian attire required for their assignments in the manner, quantity, and frequency agreed upon in the employee group's collective bargaining agreement or memorandum of understanding.

823.3 UNIFORM AND ATTIRE GUIDELINES

The Chief Probation Officer or the authorized designee shall maintain and update uniform, attire, and equipment specifications, which all members should consult as needed. Uniforms shall be worn as described therein and as specified in this policy.

The following shall apply to those assigned to wear department-issued uniforms:

- (a) Uniforms and equipment shall be maintained in a serviceable condition and ready for immediate use. Uniforms shall be neat, clean, and appear professionally pressed.
- (b) Officers in a non-uniformed assignment shall possess and maintain a serviceable uniform and the necessary equipment to perform uniformed duty.
- (c) Uniforms shall be worn in compliance with any applicable department specifications.

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- (d) Uniformed members shall wear only the uniforms specified for their ranks and assignments.
- (e) Civilian attire shall not be worn with any distinguishable part of a uniform.
- (f) Uniforms are only to be worn while on-duty, for court, at official department functions or events, while in transit to or from work, or when authorized by the Chief Probation Officer or the authorized designee.
 - 1. When the uniform is worn while in transit, a civilian outer garment shall be worn over the uniform shirt to avoid bringing attention to the member while off-duty.
- (g) Members are not to purchase or drink alcoholic beverages while wearing any part of department-issued uniforms, including the uniform pants.
- (h) All supervisors will periodically inspect members under their commands to ensure conformance to this policy.

823.3.1 ACCESSORIES

Members shall adhere to the following when wearing department uniforms:

- (a) Mirrored sunglasses will not be worn.
- (b) Jewelry shall be in accordance with the specifications of the Personal Appearance Standards Policy.

823.3.2 INSIGNIA, PATCHES, AND BADGE

Only the following elements may be affixed to department uniforms unless an exception is authorized by the Chief Probation Officer:

- (a) Shoulder patch - The authorized shoulder patch supplied by the Department shall be machine-stitched to the sleeves of all uniform shirts and jackets.
- (b) Badge - The department-issued badge, or an authorized machine-stitched cloth replica, must be worn and visible at all times while in uniform.
- (c) Nameplate - The regulation nameplate, or an authorized machine-stitched cloth nameplate, shall be worn at all times while in uniform.
 - 1. When a jacket is worn, the nameplate, or an authorized machine-stitched cloth nameplate, shall be affixed to the jacket in the same manner as the uniform.
- (d) Rank insignia - The designated insignia indicating the member's rank must be worn at all times while in uniform.
- (e) Service insignia - The designated insignia indicating the member's length of service may be worn on long-sleeve shirts and jackets. The insignia shall be machine-stitched to the left sleeve of the uniform.
- (f) Assignment insignias - Assignment insignias (e.g., Field Training Officer (FTO)) may be worn as designated by the Chief Probation Officer.
- (g) American flag pin - An American flag pin may be worn centered above the nameplate.
- (h) Award/commendation insignia - Insignia representing an award or commendation received under the Commendations and Awards Policy, or other recognition

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authorized by the Chief Probation Officer, may be worn, centered above the nameplate. If more than one award is worn, or an American flag pin is worn, the insignia shall be equally spaced in one or two horizontal rows centered above the nameplate to provide a balanced appearance.

823.3.3 MOURNING BAND

Uniformed members shall wear a black mourning band across the department badge whenever a peace officer is killed in the line of duty or as directed by the Chief Probation Officer. These mourning periods will be observed:

- (a) San Benito County Probation Department officer - From the time of death until midnight on the 14th day after the death.
- (b) An officer from this or an adjacent county - From the time of death until midnight on the day of the funeral.
- (c) Funeral attendee - While attending the funeral of an out-of-region fallen officer.
- (d) National Peace Officers Memorial Day (May 15) - From 0001 hours until 2359 hours.
- (e) As directed by the Chief Probation Officer.

823.3.4 LOGOS

Items bearing the department logo will not be worn when performing duties of other employment as described in the Outside Employment and Outside Overtime Policy.

823.4 UNIFORM CLASSES

The Chief Probation Officer or the authorized designee shall determine the uniform to be worn by each department member or any deviations that may be authorized.

823.4.1 UNIFORMS

Sworn probation officers will wear the black department polo shirt or the black department utility shirt, embroidered on the front with staff name and department badge. The utility shirt shall be adorned with department issued shoulder patches. The polo shirt may be adorned with department issued shoulder patches. The polo shirts are made of a "dri-fit" material. The department utility pants shall be a "tundra" or "sierra/khaki" color.

Deputy probation officers may wear their department polo shirt or utility shirt combined with department utility pants as an alternative to "traditional" office attire. Footwear such as patrol or "duty" boots/shoes, colored black, is the appropriate footwear for use with the department shirt and pants. Shirt tails should be tucked in and not left "hanging loose."

Other non-department "probation" shirts, utility pants of a different color from the standard department pants, are appropriate for "casual Friday."

The use of neckties as office attire is optional.

All Probation Officers are required to have court attire available, pressed, and ready to wear daily, if not already dressed in court attire. Court attire consists of slacks, dress shirt, tie and suit coat or sports jacket for males, and a suit, pantsuit, dress or skirt for females. Shoes are to be polished

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leather dress shoes. Any pre-scheduled court appearance, such as representing the department as the Court Officer or upon subpoena, must be in court attire.

All non-sworn staff may wear a plain black "dri-fit" polo shirt combined with "tundra" or "sierra/khaki" colored utility pants as an alternative to standard office attire.

For all staff, with the exception of special duty assignments and on "casual Friday," jeans/denim pants are not to be worn in the office or for field work. Officers assigned to a specialized task force or Special Intelligence Unit (SIU) shall adhere to the dress policy of that unit.

823.4.2 CLASS A UNIFORM

The Class A full dress uniform is to be worn by designated department members on special occasions such as funerals, graduations, ceremonies, or as directed by the Chief Probation Officer or the authorized designee. The Class A uniform consists of:

- (a) Dress hat.
- (b) Long-sleeve shirt.
- (c) Tie tack or tie bar.
- (d) Trousers or skirt.
- (e) Black belt.
 - 1. Belts shall be equipped as needed for the member's assignment
- (f) Dark blue or black socks.
 - 1. Natural colored hose must be worn with the skirt.
- (g) Polished black dress shoes.
 - 1. Boots with pointed toes are not permitted.
- (h) White gloves.

823.4.3 CLASS C UNIFORM

The Class C general utility uniform is to be worn by designated department members.

The Chief Probation Officer or the authorized designee will establish the specifications, regulations, and conditions for wearing the Class C uniform.

823.5 CIVILIAN ATTIRE

There are job duties and assignments within the Department that do not require a uniform because recognition and authority are not essential to their functions. There are also assignments for which civilian attire is necessary.

- (a) Civilian attire shall fit properly, be clean and free of stains, and not be damaged or excessively worn.
- (b) Members assigned to administrative, investigative, and support positions shall wear business-appropriate clothing that is conservative in style.

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- (c) Variations from this policy are allowed at the discretion of the Chief Probation Officer or the authorized designee when the member's assignment or current task is not conducive to wearing such clothing.
- (d) No item of civilian attire that would adversely affect the reputation of the San Benito County Probation Department or the morale of the members may be worn while on-duty.
- (e) The following items shall not be worn while on-duty or when representing the Department in any official capacity:
 - 1. Clothing that reveals cleavage, the back, chest, stomach, or buttocks
 - 2. T-shirt alone or exposed undergarments
 - 3. Swimsuits, tank tops, tube tops, or halter tops
 - 4. Sweatshirts, sweatpants, or similar exercise clothing
 - 5. Spandex-type pants or transparent clothing
 - 6. Open-toed shoes
 - 7. Clothing, buttons, or pins displaying racial, sexual, discriminatory, gang-related, or obscene language

Denim pants and shorts may be worn as approved by the Chief Probation Officer or the authorized designee.

823.6 ALTERNATIVE NON-SWORN ATTIRE

Alternative attire may be worn when Non-sworn members have supervisory approval and participate in work-related activities involving physical labor, such as recreation supervision, training exercises, and computer set-ups. Each Division should maintain a list of Non-sworn members specifically authorized to wear alternative attire.

823.7 OPTIONAL EQUIPMENT

Items allowed by the San Benito County Probation Department but that have been identified as optional shall be purchased entirely at the expense of the member. No part of the purchase cost shall be offset by the department.

Maintenance of optional items (e.g., repairs due to normal wear and tear) shall be the financial responsibility of the purchasing member.

823.8 UNAUTHORIZED UNIFORMS, ATTIRE, EQUIPMENT, AND ACCESSORIES

Department members may not wear any uniform, attire, item, accessory, or attachment unless specifically authorized by the Chief Probation Officer or the authorized designee.

Department members may not use or carry any safety item, tool, or other piece of equipment unless specifically authorized by the Chief Probation Officer or the authorized designee.

Conflict of Interest

824.1 PURPOSE AND SCOPE

The purpose of this policy is to assist members in recognizing and avoiding potential conflicts of interest, thereby ensuring effective and ethical operating practices on the part of the San Benito County Probation Department.

824.1.1 DEFINITIONS

Definitions related to this policy include:

Conflict of interest - Any actual, perceived, or potential conflict in which it reasonably appears that a member's action, inaction, or decisions are or may be influenced by a personal or business relationship.

824.2 POLICY

Members of the San Benito County Probation Department are expected to conduct themselves with the utmost professional integrity and objectivity. Members will guard against actual or perceived conflicts of interest in order to ensure the fair and equitable treatment of department members and the public, and thereby maintain the trust of the public and other department members.

824.3 PROHIBITIONS

The Department prohibits the following types of personal or business relationships among members (Government Code § 12940):

- (a) Members are prohibited from directly supervising, occupying a position in the line of supervision, or being directly supervised by any other member who is a relative or with whom they are involved in a personal or business relationship.
 1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved member to an uninvolved supervisor.
 2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing members in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any member to another position within the same classification to avoid conflicts with any provision of this policy.
- (b) Members are prohibited from participating in, contributing to, or recommending promotions, assignments, performance evaluations, transfers, or other personnel decisions affecting a member who is a relative or with whom they are involved in a personal or business relationship.
- (c) Whenever possible, field training officers (FTOs) and other trainers will not be assigned to train relatives. Department FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any member they

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are assigned to train until such time as the training has been successfully completed and the person is off probation.

824.4 MEMBER RESPONSIBILITIES

Members shall avoid situations that create a conflict of interest. Members should take reasonable steps to address a perception of a conflict of interest when such a perception is reasonably foreseeable and avoidable (e.g., deferring a decision to an uninvolved member).

Whenever any member is placed in circumstances that would require the member to take enforcement action or provide official information or services to any relative or individual with whom the member is involved in a personal or business relationship, that member shall promptly notify an uninvolved, immediate supervisor.

If no uninvolved supervisor is immediately available, the member shall promptly notify the Chief Probation Officer or the authorized designee to have another uninvolved member either relieve the involved member or, minimally, remain present to witness the action

824.5 SUPERVISOR RESPONSIBILITIES

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 Probation Officer or the authorized designee of such actual or potential violations through the chain of command.

Badges, Patches, and Identification

825.1 PURPOSE AND SCOPE

The San Benito County Probation Department (SBCPD) badge, logo, patch, and identification card, as well as the likeness of these items and the name of the Department, are property of the Department. Their use shall be restricted as set forth in this policy.

825.2 POLICY

The San Benito County Probation Department issues each member appropriate identification, which may include a badge, logo, patch, and/or identification card, depending on the member's position within the Department.

825.3 MEMBER RESPONSIBILITIES

Members of the San Benito County Probation Department will use the SBCPD badge, logo, patch, and identification card, as well as the likeness of these items, appropriately and professionally. The SBCPD badge, logo, patch, and identification card shall only be displayed or used by a member when acting in an official or authorized capacity.

Department members shall not:

- (a) Display or use the SBCPD badge, patch, or identification card for personal gain or benefit.
- (b) Loan the SBCPD badge, patch, or identification card to others or permit these items to be reproduced or duplicated.
- (c) Use images of the SBCPD badge, patch, or identification card, or the likeness thereof, or the San Benito County Probation Department name, for personal or private reasons, including but not limited to letters, memoranda, and electronic communications, such as email, blogs, social networking, or websites.

825.4 LOST OR STOLEN BADGE, PATCH, OR IDENTIFICATION CARD

Department members shall promptly notify their supervisors whenever their SBCPD badges, patches, or identification cards are stolen, lost, damaged, or are otherwise removed from their control.

825.5 BADGES

The Chief Probation Officer shall determine the number and form of badges authorized for use by department members.

Only badges issued by this department may be used, displayed, carried, or worn by members while on-duty or otherwise acting in an official or authorized capacity.

825.5.1 RETIREE BADGES

The Chief Probation Officer may establish rules for allowing honorably retired members to keep their badges in some form or possess a retirement badge upon retirement.

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825.5.2 PERMITTED USE BY EMPLOYEE GROUPS

The likeness of the SBCPD badge shall not be used for any purpose without the express authorization of the Chief Probation Officer and shall be subject to the following:

- (a) An authorized employee group may use the likeness of the SBCPD badge for merchandise and official employee group business provided it is used in a clear representation of the employee group and not the San Benito County Probation Department. The following modification shall be included:
 1. Any text identifying the San Benito County Probation Department is replaced with the name of the employee group.
 2. A badge number is not included. That portion of the badge may display the acronym of the employee group.

825.6 PATCHES

The Chief Probation Officer shall determine the form of patches authorized for use by the Department. Any request to modify the authorized patches for specialty divisions (e.g., Interagency Task Forces, K-9) should be submitted to the Chief Probation Officer in writing.

Only patches issued by this department are authorized to be displayed or worn by members while on-duty or otherwise acting in an official or authorized capacity.

Members, with the written approval of the Chief Probation Officer, may request additional patches, at their own expense.

825.7 IDENTIFICATION CARDS

All members will be issued an official SBCPD identification card bearing the member's name, full-face photograph, member identification number, member's signature, and signature of the Chief Probation Officer or the official seal of the Department. All members shall be in possession of their department-issued identification cards at all times while on-duty or in department facilities.

- (a) Whenever on-duty or acting in an official capacity representing the Department, members shall display their department-issued identification cards in a courteous manner to any person upon request and as soon as practicable.
- (b) Officers or other members working specialized assignments may be excused from the possession and display requirements when directed by their Supervisors.

825.8 BUSINESS CARDS

The Department will supply business cards to those members whose assignments involve frequent interaction with the public or who may require the use of a business card. The only authorized business cards are those issued or approved by the Department and should contain identifying information, including but not limited to the member's name, Division, badge or other identification number, and contact information (e.g., telephone number, email address).

Members should provide a business card to any member of the public who requests one.

Temporary Modified-Duty Assignments

826.1 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, San Benito County rules, or current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability or limitation that is protected under federal or state law.

826.2 POLICY

Subject to operational considerations, the San Benito County Probation Department 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 Department with a productive employee during the temporary period.

826.3 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 shall be treated equally, without regard to any preference, for a work-related injury (Government Code § 12940 et seq.).

No position in the San Benito County Probation Department 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 Department. 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 Probation Officer or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, or engaging in outside employment, or may otherwise limit them in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

826.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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Temporary modified-duty assignments will be considered by Department Administration after reviewing documentation from the treating medical professional. 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 Assistant Chief Probation Officer will make a recommendation through the chain of command to the Chief Probation Officer regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief Probation Officer or the authorized designee shall confer with the Human Resources Department or the County Counsel as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Assistant Chief Probation Officer or Supervisor, with notice to the Chief Probation Officer or authorized designee.

826.5 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 department operations and the employee's medical appointments, as mutually agreed upon with the Assistant Chief Probation Officer.

826.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include but are not 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 Assistant Chief Probation Officer that contains a status update and anticipated date of return to full duty when a temporary modified-duty assignment extends beyond 60 days.

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826.5.2 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 are not limited to:

- (a) Periodically apprising the Assistant Chief Probation Officer of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Assistant Chief Probation Officer 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.

826.6 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 Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

826.7 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 employee with a temporary disability (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment. Nothing in this policy limits a pregnant employee's right to a temporary modified-duty assignment if required under Government Code § 12945.

If notified by an employee regarding a limitation related to pregnancy, childbirth, or related medical conditions, the Department should make reasonable efforts to provide an accommodation for the employee in accordance with federal law (42 USC § 2000gg-1; Government Code § 12945).

826.7.1 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 of San Benito Personnel Policies and Procedures Handbook, 6.11.7 and 6.11.9](#), regarding family and medical care leave.

826.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment may have their probation extended by a period of time equal to their assignment to temporary modified duty.

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826.9 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.

Speech, Expression, and Social Networking

827.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with the use of social networking sites and provide guidelines for regulating and balancing member speech and expression with the legitimate needs of the San Benito County Probation Department.

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, and use of all internet services, including the World Wide Web, email, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, and video-sharing and other file-sharing sites.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech, or expression 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 a member from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or an employee group, about matters of public concern, such as misconduct or corruption.

Members are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

827.2 POLICY

Members of public entities occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this San Benito County Probation Department. Due to the nature of the work and influence associated with the probation profession, it is necessary that members of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Department will carefully balance the individual member's rights against the needs and interests of the Department when exercising a reasonable degree of control over its members' speech and expression.

827.3 SAFETY

Members should carefully consider the implications of their speech or any other form of expression when using the internet. Speech and expression that may negatively affect the safety of San Benito County Probation Department members, such as posting personal information in a public forum or posting a photograph taken with a GPS-enabled camera, can result in compromising a member's home address or family ties. Members should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any member or a member's family or associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- (a) Disclosing a photograph and name or address of an officer who is working in a specialized assignment or interagency task force.

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- (b) Disclosing the address of a fellow officer.
- (c) Disclosing where another officer can be located off-duty.

827.4 PROHIBITED SPEECH, EXPRESSION, AND CONDUCT

To meet the department's safety, performance, and public-trust needs the following are prohibited unless the speech is otherwise protected (for example, a member speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or an employee group, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that compromises or damages the mission, function, reputation, or professionalism of the Department or its members.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Department and could compromise or damage the mission, function, reputation, or professionalism of the Department or its members. Examples may include:
 1. Statements that indicate disregard for the law or the state or U.S. constitutions.
 2. Expression that demonstrates support for criminal activity.
 3. 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 member 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 Department members. For example, (a statement on a blog that provides specific details on how and when custody 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 contrary to the Ethics section in Standards of Conduct Policy as adopted by the Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, or video or other recording obtained or accessible because of employment with the Department for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief Probation Officer or the authorized designee.
- (g) Posting, transmitting, or disseminating any photographs, video or audio recordings, likenesses, or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment, or other material that specifically identifies the San Benito County Probation Department on any personal or social networking or other website or web page, without the express authorization of the Chief Probation Officer.

Members must take reasonable and prompt action to remove any content, including content posted by others, that violates this policy from any web page or website maintained by the employee (e.g., social or personal website).

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827.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While members are not restricted from engaging in the following activities as private citizens or as authorized members of recognized bargaining units or employee groups, members may not represent the San Benito County Probation Department or identify themselves in any way that could be reasonably perceived as representing the Department in order to do any of the following, unless specifically authorized by the Chief Probation Officer (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 motion picture, film, video, or public broadcast, or on any website

Additionally, when it can reasonably be construed that a member, acting in the individual's own capacity or through an outside group or organization, including as an authorized member of a recognized bargaining unit or an employee group, is affiliated with this department, the member shall give a specific disclaiming statement that any such speech or expression is not representative of the San Benito County Probation Department.

Members 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 recognized bargaining units or employee groups, on political subjects and candidates at all times while off-duty. However, members may not use their official authority or influence to interfere with or affect the result of elections or nominations for office. Members are also prohibited from directly or indirectly using their official authority to coerce, command, or advise another employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes (5 USC § 1502).

827.5 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published or maintained through file-sharing software or any internet site that is accessed, transmitted, received, or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

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

827.6 CONSIDERATIONS

In determining whether to grant authorization of any speech or conduct prohibited under this policy, the factors that the Chief Probation Officer or the authorized designee should consider include:

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- (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 Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in performance of 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 Department.

827.7 TRAINING

Subject to available resources, the Department should provide periodic training regarding the limitations on speech, expression, and use of social networking to all members of the Department.

Illness and Injury Prevention

828.1 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 San Benito County Probation Department, 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.

828.2 POLICY

The San Benito County Probation Department is committed to providing a safe environment for its members and visitors and to minimizing the incidence of work-related illness and injury. The Department will establish and maintain an illness and injury prevention plan and will provide tools, training, and safeguards designed to reduce the potential for accidents, injuries, and illness. It is the intent of the Department to comply with all laws and regulations related to occupational safety.

828.3 ILLNESS AND INJURY PREVENTION PLAN

The Administrative Services Supervisor 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 Department to meet applicable standards.
- (f) Establishing a process to ensure illnesses and injuries are reported as required by the Division of Occupational Safety and Health (Cal/OSHA) (8 CCR 342).

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828.4 DIRECTOR OF ADMINISTRATIVE SERVICES RESPONSIBILITIES

The responsibilities of the Director of Administrative Services 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:
 - 1. New member orientation that includes a discussion of safety and health policies and procedures.
 - 2. Regular member review of the illness and injury prevention plan.
 - 3. Providing 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 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 department 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 a form to document inspections, unsafe conditions, or unsafe work practices, and actions taken to correct unsafe conditions and work practices.
- (f) Making available a form to document individual incidents or accidents.
- (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.

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828.5 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 Director of Administrative Services.
- (e) Notifying the Director of Administrative Services when:
 1. New substances, processes, procedures, or equipment that present potential new hazards are introduced to 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.

828.6 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.

All significant actions taken and dates they are completed shall be documented on the appropriate form. This form should be forwarded to the Assistant Chief Probation Officer via the chain of command.

The Assistant Chief Probation Officer will take appropriate action to ensure the illness and injury prevention plan addresses potential hazards upon such notification.

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828.7 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 Director of Administrative Services shall ensure that the appropriate documentation is completed for each inspection.

828.7.1 EQUIPMENT

Members are charged with daily vehicle inspections of their assigned vehicles and of their PPE prior to working in the field. Members should promptly notify their supervisor of any unsafe condition that cannot be immediately corrected.

828.8 INVESTIGATIONS

Any member suffering from 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.

Additionally, the supervisor should proceed with the steps to report an on-duty injury, as required under the Work-Related Illness and Injury Reporting Policy, in conjunction with this investigation to avoid duplication and ensure timely reporting.

828.9 TRAINING

The Assistant Chief Probation Officer should work with the Training Manager to provide all members, including managers, with training on general and job-specific workplace safety and health practices. Training shall be provided:

- (a) To managers 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.

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- (d) Whenever new substances, processes, procedures, or equipment are introduced to the workplace and represent a new hazard.
- (e) Whenever the Department is made aware of a new or previously unrecognized hazard.

828.9.1 TRAINING TOPICS

The Training Manager 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) Availability of toilet, hand-washing, and drinking-water facilities.
- (d) Provisions for medical services and first aid.
- (e) Handling of bloodborne pathogens and other biological hazards.
- (f) Prevention of heat and cold stress.
- (g) 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)).
- (h) Mitigation of physical hazards, such as heat and cold stress, noise, and ionizing and non-ionizing radiation.
- (i) Identification and mitigation of ergonomic hazards, including working on ladders or in a stooped posture for prolonged periods.
- (j) Back exercises/stretchers and proper lifting techniques.
- (k) Avoidance of slips and falls.
- (l) Good housekeeping and fire prevention.
- (m) Other job-specific safety concerns.

828.10 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

829.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of the San Benito County Probation Department 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 Probation Officer 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.

829.1.1 DEFINITIONS

Definitions related to this policy include:

Line-of-duty death - The death of a sworn member during the course of performing probation-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.

829.2 POLICY

It is the policy of the San Benito County Probation Department to make appropriate notifications and to provide assistance and support to survivors and coworkers of a member who dies in the line of duty.

It is also the policy of this department to respect the requests of the survivors when they conflict with these guidelines, as appropriate.

829.3 INITIAL ACTIONS BY ADMINISTRATIVE STAFF

- (a) Upon learning of a line-of-duty death, the deceased member's supervisor should provide all reasonably available information to the Department.
 1. Communication of information concerning the member and the incident should be restricted to secure networks to avoid interception by the media or others (see the Public Information Officer section of this policy).
- (b) The Assistant Chief Probation Officer 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 Assistant Chief Probation Officer or the designee should respond to the hospital to assume temporary responsibilities as the Hospital Liaison.

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- (d) The Chief Probation Officer 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 Department Liaison as soon as practicable (see the Notifying Survivors section and the Department Liaison and Hospital Liaison subsections in this policy).

829.4 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 Probation Officer or the authorized designee should review the deceased member's emergency contact information and emergency notification form, if one exists, 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 Probation Officer, Assistant Chief Probation Officer, or the authorized designee should select at least two members to conduct notification of survivors.

Notifying members should:

- (a) Make notifications in a direct and compassionate manner, communicating as many facts of the incident as possible, including the current location of the member. Information that is not verified should not be provided until an investigation has been completed.
- (b) Determine the method of notifying surviving children by consulting with other survivors and taking into account factors such as the child's age, maturity, and current location (e.g., small children at home, children in school).
- (c) Plan for concerns such as known health concerns of survivors or language barriers.
- (d) Offer to transport survivors to the hospital, if appropriate. Survivors should be transported in department vehicles when possible. Notifying members shall inform the Hospital Liaison over a secure network that the survivors are on their way to the hospital. Notifying members should remain at the hospital while the survivors are present.
- (e) When survivors are not at their residences or known places of employment, actively seek information and follow leads from neighbors, other law enforcement, postal authorities, and other sources of information in order to accomplish notification in as timely a fashion as possible. Notifying members shall not disclose the reason for their contact other than a family emergency.
- (f) If making notification at a survivor's workplace, ask a workplace supervisor for the use of a quiet, private room to meet with the survivor. Members shall not inform the workplace supervisor of the purpose of their visit other than to indicate that it is a family emergency.
- (g) Offer to call other survivors, friends, or clergy to support the survivors and to avoid leaving survivors alone after notification.

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- (h) Assist the survivors with meeting childcare or other immediate needs.
- (i) Provide other assistance to survivors and take reasonable measures to accommodate their needs, wishes, and desires. Care should be taken not to make promises or commitments to survivors that cannot be met.
- (j) Inform the survivors of the name and phone number of the Survivor Support Liaison (see the Survivor Support Liaison section of this policy), if known, and the Department Liaison.
- (k) Provide their contact information to the survivors before departing.
- (l) Document the survivors' names and contact information, as well as the time and location of notification. This information should be forwarded to the Department Liaison.
- (m) Inform the Chief Probation Officer or the authorized designee once survivor notifications have been made so that other San Benito County Probation Department members may be apprised that survivor notifications are complete.

829.4.1 OUT-OF-AREA NOTIFICATIONS

The Department Liaison should request assistance from law enforcement agencies in appropriate jurisdictions for in-person notification to survivors who are out of the area.

- (a) The Department Liaison should contact the appropriate jurisdiction using a secure network and provide the assisting agency with the name and telephone number of the department member that the survivors can call for more information following the notification by the assisting agency.
- (b) The Department Liaison may assist in making transportation arrangements for the member's survivors, but will not obligate the Department to pay travel expenses without the authorization of the Chief Probation Officer.

829.5 NOTIFYING DEPARTMENT MEMBERS

Supervisors or members designated by the Chief Probation Officer are responsible for notifying department members of the line-of-duty death as soon as possible after the survivor notification is made. Notifications and related information should be communicated in person or using secure networks and should not be transmitted over the radio.

Notifications should be made in person and as promptly as possible to all members on-duty at the time of the incident. Members 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., chaplain, counselor, peer support group, Employee Assistance Program, modifying work schedules, approving sick leave) for members who are especially affected by the incident.

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Supervisors should direct members not to disclose any information outside the Department regarding the deceased member or the incident.

829.6 LIAISONS AND COORDINATORS

The Chief Probation Officer or the authorized designee should select members to serve as liaisons and coordinators to handle responsibilities related to a line-of-duty death including, but not limited to:

- (a) Department Liaison.
- (b) Hospital Liaison.
- (c) Survivor Support Liaison.
- (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 Department 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 department resources. The Department Liaison may assign separate liaisons and coordinators to accommodate multiple family units, if needed.

829.6.1 DEPARTMENT LIAISON

The Department Liaison should be a Assistant Chief Probation Officer or of sufficient rank to effectively coordinate Department resources and should serve as a facilitator between the deceased member's survivors and the Department. The Department Liaison reports directly to the Chief Probation Officer. The Department 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 be sufficient to accommodate visitation and presenting the options to the appropriate survivors, who will select the location.
- (e) Coordinating all official law enforcement notifications and arrangements.
- (f) Making necessary contacts for authorization to display flags at half-staff.

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- (g) Ensuring that department members are reminded of appropriate information-sharing restrictions regarding the release of information that could undermine future legal proceedings.
- (h) Coordinating security checks of the member's residence as necessary and reasonable.
- (i) Serving as a liaison with visiting law enforcement agencies during memorial and funeral services.

829.6.2 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. Department members and friends of the deceased member.
 - 3. Media personnel.
- (b) Ensure, as much as practicable, that any suspects who are in the hospital and their families or friends are not in close proximity to the member's survivors or San Benito County Probation Department members (except for members who may be guarding the suspect).
- (c) Ensure that survivors receive timely updates regarding the member before information is released to others.
- (d) Arrange for survivors to have private time with the member, if requested.
 - 1. The Hospital Liaison or hospital personnel may need to explain the condition of the member to the survivors to prepare them accordingly.
 - 2. The Hospital Liaison should accompany the survivors into the room, if requested.
- (e) Stay with survivors and ensure that they are provided with other assistance as needed at the hospital.
- (f) If applicable, explain to the survivors why an autopsy may be needed.
- (g) Ensure hospital bills are directed to the Department, that the survivors are not asked to sign as guarantor of payment for any hospital treatment and that the member's residence address, insurance information, and next of kin are not included on hospital paperwork.

Other responsibilities of the Hospital Liaison include but are not limited to:

- Arranging transportation for the survivors back to their residence.
- Working with investigators to gather and preserve the deceased member's equipment and other items that may be of evidentiary value.
- Documenting actions at the conclusion of liaison duties.

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829.6.3 SURVIVOR SUPPORT LIAISON

The Survivor Support Liaison should work with the Department Liaison to fulfill the immediate needs and requests of the survivors of any member who has died in the line of duty, and serve as the long-term department contact for survivors.

The Survivor Support Liaison should be selected by the deceased member's Assistant Chief Probation Officer. The following should be considered when selecting the Survivor Support Liaison:

- The liaison should be an individual the survivors know and with whom they are comfortable working. If the member has completed an emergency notification form, it should be used for this purpose.
- 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 Department Liaison regarding appropriate security measures for the family residence, as needed.
- (c) If requested by the survivors, providing assistance with instituting methods of screening telephone calls made to their residence after the incident.
- (d) Providing assistance with travel and lodging arrangements for out-of-town survivors.
- (e) Returning the deceased member's personal effects from the Department and the hospital to the survivors. The following should be considered when returning the personal effects:
 1. Items should not be delivered to the survivors until they are ready to receive the items.
 2. Items not retained as evidence should be delivered in a clean, unmarked box.
 3. All clothing not retained as evidence should be cleaned and made presentable (e.g., items should be free of blood or other signs of the incident).
 4. The return of some personal effects may be delayed due to ongoing investigations.
- (f) Assisting with the return of department-issued equipment that may be at the deceased member's residence.
 1. Unless there are safety concerns, the return of the equipment should take place after the funeral at a time and in a manner considerate of the survivors' wishes.

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- (g) Working with the CISM coordinator to ensure that survivors have access to available counseling services.
- (h) Coordinating with the department's Public Information Officer to brief the survivors on pending press releases related to the incident and to assist the survivors with media relations in accordance with their wishes (see the Public Information Officer section of this policy).
- (i) Briefing survivors on investigative processes related to the line-of-duty death, such as criminal, internal, and administrative investigations.
- (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 department activities, memorial services, or other functions as appropriate.

Survivor Support Liaisons providing services after an incident resulting in multiple members being killed should coordinate with and support each other through conference calls or meetings as necessary.

The Department recognizes that the duties of a Survivor Support Liaison will often affect regular assignments over many years, and is committed to supporting members in the assignment.

If needed, the Survivor Support Liaison should be issued a personal communication device (PCD) owned by the Department to facilitate communications necessary to the assignment. The department-issued PCD shall be used in accordance with the Personal Communication Devices Policy.

829.6.4 CRITICAL INCIDENT STRESS MANAGEMENT COORDINATOR

The CISM coordinator should work with the Chief Probation Officer 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:
 - 1. Members involved in the incident.
 - 2. Members who witnessed the incident.
 - 3. Members who worked closely with the deceased member but were not involved in the incident.

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- (b) Ensuring that members who were involved in or witnessed the incident are relieved of department 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.

829.6.5 FUNERAL LIAISON

The Funeral Liaison should work with the Department 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 probation funeral procedures.
- (b) Completing funeral notification to other probation and law enforcement agencies.
- (c) Coordinating the funeral activities of the Department or outside assisting agencies, including but not limited to the following:
 - 1. Honor Guard
 - (a) Casket watch
 - (b) Color guard
 - (c) Pallbearers
 - 2. Uniform for burial
 - 3. Flag presentation
- (d) Briefing the Chief Probation Officer and administrative staff concerning funeral arrangements.
- (e) Assigning an officer 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 department vehicles and drivers.

829.6.6 MUTUAL AID COORDINATOR

The mutual aid coordinator should work with the Department 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.

The mutual aid coordinator should perform duties in accordance with the Outside Agency Assistance Policy.

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829.6.7 BENEFITS LIAISON

The Benefits Liaison should provide survivors with information concerning available benefits and will assist them in applying for benefits. Responsibilities of the Benefits Liaison include but are not limited to:

- (a) Confirming the filing of workers' compensation claims and related paperwork (see the Work-Related Illness and Injury Reporting Policy).
- (b) Researching and assisting survivors with application for federal government survivor benefits, such as those offered through the:
 - 1. Public Safety Officers' Benefits Program.
 - 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. Workers' 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 probation 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.

829.6.8 FINANCE COORDINATOR

The finance coordinator should work with the Chief Probation Officer and the Department Liaison to manage financial matters related to the line-of-duty death. The finance coordinator's responsibilities include but are not limited to:

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- (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.
 - 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.

829.7 PUBLIC INFORMATION OFFICER

In the event of a line-of-duty death, the department's Public Information Officer, Chief Probation Officer, or the authorized designee should be the department's contact point for the media. As such, the Public Information Officer should coordinate with the Department Liaison to:

- (a) Collect and maintain the most current incident information and determine what information should be released.
- (b) Ensure that department members are instructed to direct any media inquiries to the Public Information Officer.
- (c) Prepare necessary press releases.
 - 1. Ensure coordination with other entities having media roles (e.g., outside agencies involved in the investigation or incident).
 - 2. Ensure that important public information is disseminated, such as information on how the public can show support for the department and deceased member's survivors.
- (d) Arrange for community and media briefings by the Chief Probation Officer 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 department members, other agencies, and the media as appropriate.
- (h) If desired by the survivors, arrange for the recording of memorial and funeral services via photos and/or video.

The identity of deceased members should be withheld until the member's survivors have been notified. If the media have obtained identifying information for the deceased member prior to survivor notification, the Public Information Officer should request that the media withhold the

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information from release until proper notification can be made to survivors. The Public Information Officer should ensure that media are notified when survivor notifications have been made.

829.8 CHAPLAIN

A chaplain may serve a significant role in line-of-duty deaths. Duties may include but are not limited to:

- Assisting with survivor notifications and assisting the survivors with counseling, emotional support, or other matters as appropriate.
- Assisting liaisons and coordinators with their assignments as appropriate.
- Assisting department members with counseling or emotional support, as requested and appropriate.

829.9 INVESTIGATION OF THE INCIDENT

The Chief Probation Officer 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 department members should be kept informed of the progress of the investigations and provide investigators with any information that may be pertinent to the investigations.

829.10 LINE-OF-DUTY DEATH OF A PROBATION DEPARTMENT ANIMAL

The Chief Probation Officer may authorize appropriate memorial and funeral services for probation department animals killed in the line of duty.

829.11 NON-LINE-OF-DUTY DEATH

The Chief Probation Officer may authorize certain support services for the death of a member not occurring in the line of duty.

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