













































































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

### **100 Law Enforcement Authority**

#### **100.1 PURPOSE AND SCOPE**

Law enforcement officers are granted the authority to perform their function based on established legal authority. This department does not tolerate abuse of law enforcement authority.

#### **100.2 PEACE OFFICER POWERS**

Special Agents of this department shall be considered peace officers pursuant to Penal Code § 830.1(b). The authority of any such peace officer extends to any place in the State of California.

##### **100.2.1 OTHER AUTHORITY**

Sworn members of this department have Oregon peace officer authority whenever the investigator enters Oregon in order to provide or attempt to provide specific law enforcement assistance and such assistance occurs no more than 50 miles from the California border.

Pursuant to Oregon law, such authority shall only apply when the investigator has entered Oregon:

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

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

Investigators who enter Oregon to assist in such situations have no authority to enforce Oregon traffic or motor vehicle laws.























































































































































































































































































































































































































































- Gun salutes (7 to 8)
- Escorts (2 to 8)
- Ceremonial Presentation/Memorial Services - Funerals, California Peace Officer Memorial, National Peace Officer Memorial, etc (2 to 20)
- California Attorney General's Annual Awards Ceremony (2 to 20)
- Academy graduations (5 to 6)
- Job Recruitment Fairs (2 to 6)
- Civic events and State affairs (2 to 20)
- Other official functions (2 to 20)
- Funerals - Line of Duty Death (18 to 20)

DLE representation at funeral services is a desirable manner of expressing respect and bereavement for the decedent and extending sympathy toward the surviving family and close associates. The Adjutant to the Chief will be the liaison between the Division and the family in order to coordinate information and services.

When an active member (sworn or non-sworn) of DOJ dies, and the decedent's family requests DLE's presence, a formal deployment may be authorized at the direction of the Chief.

When a retired member (sworn or non-sworn) of DOJ dies, and the decedent's family requests DLE assistance, an informal deployment may be authorized. Such a request shall be processed through the Honor Guard Commander. A formal deployment may occur with authorization from the Chief.

When an allied law enforcement officer dies, the SAC of the regional office serving the area where the officer died may request an informal deployment through the Honor Guard Commander. The members of the Honor Guard shall preassemble with the plain clothes contingent of DOJ personnel at a predetermined location. From this assembly point, the entire group shall proceed to the funeral/memorial location.

### **383.4 TRAINING**

All members shall train together bi-annually at a location convenient for DOJ and Honor Guard members. The bi-annual training shall last for no longer than 16 hours.

Additionally, the North and South teams shall train individually on a bi-monthly basis. The bi-monthly training shall last no longer than four hours.

## **383.5 UNIFORMS**

One complete uniform and accouterments shall be issued to each member of the Honor Guard Detail. Members shall not make any changes or additions to the uniform and/or accouterments. Maintenance of the uniform and accouterments is the responsibility of each team member. Uniforms and accouterments shall be maintained in impeccable condition. Dry cleaning costs may be reimbursed through the Travel Expense Claim process. A receipt shall accompany the claim.

All of the issued components of the uniform and accouterments have a service life. When an issued item is no longer serviceable or shows visible wear, the item will be replaced by the Department at no cost to the member. Replacements may be ordered by the Office of the Director, or the Honor Guard member may seek reimbursement for a properly documented purchase by submitting a Travel Expense Claim.

## **383.6 GROOMING**

Each member must comply with the following grooming standards when representing the DOJ as a member of the Honor Guard Detail.

### **383.6.1 MALE GROOMING STANDARDS**

- a. Hair:
  1. Hair shall be neat, clean, trimmed, and present a groomed appearance.
  2. Hair shall not extend below the top of the uniform shirt collar.
  3. Hair shall not cover any part of the outside portion of the ear.
  4. Hair which is styled or combed forward shall not be lower than the eyebrow, and shall not be visible on the forehead while the uniform hat is worn.
  5. Hair color and style shall not be unusual or bizarre.
  6. Natural and other hair styles are permitted if they conform to the standards described above; however, the maximum extension from the scalp shall not exceed two (2) inches.
  7. Hair shall not interfere with the proper wearing of the uniform hat.
- b. Sideburns and mustaches:
  1. Members shall be clean-shaven.

2. Sideburns shall not extend below the bottom of the ear and shall end with a clean-shaven horizontal line. The maximum width at the bottom of the sideburn shall not exceed 1 1/2 inches.
  3. Mustaches shall not extend more than 1/2 inch beyond or 1/4 inch below the corners of the mouth.
- c. Cosmetics and jewelry:
1. No earrings shall be worn.

### **383.6.2 FEMALE GROOMING STANDARDS**

- a. Hair:
1. Hair shall be neat, clean, trimmed, and present a groomed appearance.
  2. Hair shall not extend below the top of the uniform shirt collar.
  3. Hair shall not cover any part of the outside portion of the ear.
  4. Hair which is styled or combed forward shall not be lower than the eyebrow, and shall not be visible on the forehead while the uniform hat is worn.
  5. Hair color and style shall not be unusual or bizarre.
  6. Natural and other hair styles are permitted if they conform to the standards described above; however, the maximum extension from the scalp shall not exceed two (2) inches.
  7. Decorations shall not be worn in the hair. Hair clips and pins that match the color of the hair are permitted.
  8. Hair shall not be worn in a ponytail or similar style.
  9. Hair shall not interfere with the proper wearing of the uniform hat.
- b. Cosmetics and jewelry:
1. Cosmetics shall be subdued and blended to match the natural skin color of the individual.
  2. False eyelashes are prohibited.
  3. No earrings or excessive jewelry shall be worn.

c. Fingernails:

1. Fingernails will not extend more than 1/2 inch beyond the fingertip.
2. Fingernail polish, if worn, shall be clear.

### **383.7 TRANSFERS**

In the event that an Honor Guard member transfers to an area where there are no Honor Guard member vacancies, the member may be required to resign his/her position and turn in his/her uniform, accouterments, and all other equipment to the Honor Guard Commander. In the event that an Honor Guard member transfers to another division, a mutual agreement shall be sought to retain the member's services. The agreement shall be between the Chief and the chief of the division to which the member is transferring.

## **384 Volunteer Program**

### **384.1 PURPOSE AND SCOPE**

It is the policy of this department to use qualified volunteers for specified tasks and duties in order to create efficiencies for the Department and improve services to the community. Volunteers are intended to supplement and support, rather than supplant, sworn agents and civilian personnel. Volunteers can be an important part of any organization and are proven to be a valuable asset to law enforcement agencies. Volunteers help to increase departmental responsiveness, delivery of services and information input, and provide new program opportunities. In addition, volunteers bring new skills and expertise to the Department and prompt new enthusiasm.

Refer to DOJAM §§ 062111-062118 for the Department's complete Volunteer Services policy.

## **385 Dignitary Protection Unit**

### **385.1 PURPOSE AND SCOPE**

The mission of the Dignitary Protection Unit (DPU) is to ensure the safety and security of the Attorney General. This policy defines the DPU's responsibilities and composition.

### **385.2 RESPONSIBILITIES**

Members of the DPU are responsible for providing the Attorney General with safe transportation and physical protection, conducting meticulous security advance work, and assessing threats made against the Attorney General and/or his/her family. Duties include site surveys, designation of primary and backup/evacuation routes, and coordination with local law enforcement agencies as appropriate.

### **385.3 ORGANIZATION AND SELECTION**

The DPU, a component of the Office of the Chief, consists of teams in northern and southern California. Each team is managed by a SAS who reports to the Deputy or Assistant Chief.

The Deputy or Assistant Chief selects individuals for 18-month assignments to the DPU at his/her discretion, taking into consideration each candidate's demonstrated abilities to perform the necessary duties with discretion and flexibility. The staffing levels and composition of the DPU will necessarily fluctuate according to the needs of the Attorney General. All DPU members are required to work four 10-hour days a week, with schedules distributed to ensure morning, evening and weekend coverage.

### **385.4 SPECIAL TRAINING**

Successful completion of the 36-hour Dignitary Security and Protection course provided by the ATC is required upon assignment to the DPU. The regional SAS should provide 24 hours of in-service training to every new member during the first month of that member's assignment.

### **385.5 NON-DISCLOSURE AGREEMENT**

Commensurate with the expectation of complete confidentiality that is inherent in dignitary protection work, members of the DPU are expected to act with utmost discretion and professionalism. All members shall be required to sign and abide by a Dignitary Protection Unit Non-Disclosure Agreement (DLE 245) before they may assume any duties associated with the DPU.

## **386 Off-Duty Law Enforcement Actions**

### **386.1 PURPOSE AND SCOPE**

The decision to become involved in a law enforcement action when off-duty can place an agent as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for agents of the California Department of Justice with respect to taking law enforcement action while off-duty.

### **386.2 POLICY**

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

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

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

### **386.3 FIREARMS**

Agents of this department may carry firearms while off-duty in accordance with federal regulations and department policy. All firearms and ammunition must meet guidelines as described in Policies 312 (Firearms) and 432 (Shoulder Weapons), as appropriate. When carrying firearms while off-duty, agents shall also carry their Department-issued badge and identification.

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

### **386.4 DECISION TO INTERVENE**

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

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

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

#### **386.4.1 INTERVENTION PROCEDURE**

If involvement is reasonably necessary, the agent should attempt to call or have someone else call 9-1-1 to request immediate assistance. The operator should be informed that an off-duty agent is on-scene and should be provided a description of the officer if possible.

Whenever practicable, the agent should loudly and repeatedly identify him/herself as an agent of the California Department of Justice until acknowledged. Official identification should also be displayed.

#### **386.4.2 INCIDENTS OF PERSONAL INTEREST**

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

#### **386.4.3 CIVILIAN RESPONSIBILITIES**

Civilian personnel should not become involved in any law enforcement actions while off-duty except to notify the local law enforcement authority and remain at the scene, if safe and practicable.

#### **386.4.5 REPORTING**

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

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

## *Chapter 4 - Field Operations*

### **402 Racial/Bias Based Profiling**

#### **402.1 PURPOSE AND SCOPE**

Racial/biased policing undermines legitimate law enforcement efforts, alienates community members and fosters community distrust. The California Department of Justice strives to provide law enforcement services to our community with due regard to the racial and cultural differences of those we serve. It shall be the policy and practice of this department to provide law enforcement services and to enforce the law equally and fairly without discrimination toward any individual(s) or group(s) of individuals because of their race, ethnicity, national origin, gender, sexual orientation/identity, religion, socioeconomic status and/or age.

#### **402.2 DEFINITION**

Racial/bias-based profiling, for purposes of this section, is the practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped (Penal Code § 13519.4(e)). No member of this department will engage in any enforcement activity that is based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being investigated.

#### **402.3 POLICY**

Personnel shall not consider race, ethnicity, national origin, gender, sexual orientation/identity, religion, socioeconomic status and/or age in carrying out law enforcement activities, except when seeking one or more specific persons who have been identified or described in part by any of the above listed characteristics. In those circumstances, personnel may rely on these characteristics only in combination with other appropriate factors.

It is biased policing if an agent's decisions or actions are based on the fact that the individual's demographics (e.g., race, income) are different from the demographics of the majority of those who reside, work, conduct business or otherwise frequent the area in which the individual is observed.

The practice of racial/bias-based profiling is illegal and will not be tolerated by this department (Penal Code § 13519.4(f)).

- a. It is the responsibility of every member of this department to prevent, report, and respond appropriately to discriminatory or biased practices.
- b. Every member of this department engaging in any law enforcement activity shall be prepared to articulate sufficient reasonable suspicion to justify that activity independent

of the individual's race, ethnicity, national origin, gender, sexual orientation/identity, religion, socioeconomic status and/or age.

1. To the extent that written documentation would otherwise be completed (e.g., arrest report), the involved agent should include those facts giving rise to the agent's reasonable suspicion or probable cause for the contact.
2. Nothing in this policy shall require any agent to prepare documentation of a contact that would not otherwise involve such reporting.
3. While the practice of racial/bias-based profiling is strictly prohibited, it is recognized that race, ethnicity, national origin, gender, sexual orientation/identity, religion, socioeconomic status and/or age may be legitimately considered by an agent in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description includes race in addition to other descriptive factors, such as height, weight hair color, hair style, age, etc., and all those factors considered together tend to identify the perpetrator more clearly than race alone).

The California Department of Justice will investigate all complaints of alleged racial/bias-based profiling complaints against its members. Employees found to be in violation of this policy are subject to discipline in accordance with this department's disciplinary policy.

#### **402.4 TRAINING**

- a. Agents of this department attend initial POST-approved training on the subject of racial profiling during their basic academy.
- b. All members of this department are encouraged to familiarize themselves with and consider racial and cultural differences among members of our community.
- c. Each member of this department undergoing initial POST-approved training will thereafter be required to complete an approved refresher course every five years, or sooner if deemed necessary, in order to keep current with changing racial and cultural trends (Penal Code §13519.4(i)).
  1. DOJ's racial profiling refresher course is presented in the form of a two-hour interactive DVD developed by POST. Copies of the DVD are issued to each regional office training coordinator.
  2. The OC will assign the refresher course to all agents every five years via a memorandum to the Bureau Directors. In order to receive credit from POST and comply with POST regulations, agents must complete the course and their training coordinators must submit completed POST rosters to the ATC by the date specified in the memorandum. The course shall be entered into each agent's ATRS and training file by the respective training coordinator.

## 405 Enforcement Operations

### 405.1 PURPOSE AND SCOPE

This policy sets forth procedures applicable to field enforcement operations such as service of search or arrest warrants, surveillance, and undercover operations. These procedures are intended to ensure officer safety and the success of the operations.

[REDACTED]

[REDACTED]

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]

█ [REDACTED]

█ [REDACTED]

### **405.2.1 OPERATION PLAN FILE**

Each regional office shall maintain a file entitled "Operation Plans." At the conclusion of each field operation for which an operation plan is prepared, a complete copy of the operation plan shall be placed in the file. Operation plans shall be arranged in chronological order, then by case number, to easily cross-reference them to investigation files. The purge schedule for operation plans is the same as for investigation files.

### **405.3 PRE-OPERATION BRIEFING**

Prior to any planned field enforcement actions, a briefing shall be conducted by the SAS, case agent, and/or local officer having thorough knowledge of the case, with all participating agents and officers.

- a. This briefing shall include a review of the operation plan, assignments of duties, thorough identification and description of suspects and premises, a reading of the search warrant (if any), and identification of all agents and/or officers who will participate in the operation. Photographs of suspects and premises, when available, shall be distributed.
- b. If the plan requires entry of a premises for the purpose of serving an arrest or search warrant, participating personnel shall be reminded that a "knock and notice" is required prior to entering the premises. One person shall be assigned to document the facts relating to the entry. This includes, but is not limited to the name of the agent who performed the "knock and notice," the exact words that were spoken by the agent, the amount of time that elapsed before the door was opened (by the occupant(s) or by force), and, if applicable, any exigent circumstances that created the need to immediately force open the door.
- c. If patrol units are to be used in security or back-up roles, those officers shall also be briefed, in the field if necessary, so that they are aware of exactly what is taking place and of the identity of the agents and officers who are involved.
- d. The reporting agent shall document the following in the investigation report:
  1. The time and date the briefing was held and the names and agencies of all persons present.
  2. The facts relating to entry of a premises (see Section 344).

## **405.4 LOCAL AGENCY OFFICER**

If the operation involves service of a search or arrest warrant, a uniformed officer from the local agency having jurisdiction should be present during the service of the warrant for liaison purposes.

## **405.5 DEBRIEFING**

A debriefing shall be conducted following the conclusion of every field enforcement operation. All personnel who participated in the operation shall be present for the debriefing, during which any problems and safety issues that occurred during the operation shall be discussed.

## **405.6 PARTICIPATION IN JOINT ENFORCEMENT OPERATIONS**

Agents participating in joint enforcement operations with other law enforcement agencies shall at all times conduct themselves in compliance with Department and Division orders, rules, and regulations.

### **405.6.1 WITHDRAWAL FROM JOINT ENFORCEMENT OPERATIONS**

If agents, while working with other law enforcement agencies, find that officers are conducting themselves in a manner or performing their duties in conflict with this department's orders, rules or regulations, they shall, whenever possible, notify an SAS of the conflict before continuing to participate in the assignment. If unable to contact an SAS, the senior agent at the scene may terminate DLE's participation.

Within 24 hours of withdrawal from a joint enforcement operation, the responsible agent shall submit a memorandum to the SAC via the SAS detailing the circumstances that led to termination of DLE's involvement.

## **406 Crime & Disaster Scene Integrity**

### **406.1 PURPOSE AND SCOPE**

The protection and integrity of a crime scene is of the utmost importance for the successful apprehension of criminals and successful prosecution. The integrity of a disaster scene is equally as critical for the protection of life and property and investigation by proper authorities.

### **406.2 CRIME SCENE RESPONSIBILITY**

The first agent at the scene of a crime or major incident is generally responsible for taking reasonable efforts to preserve the scene. Agents shall also consider officer safety and public safety, including reasonable efforts to render medical aid to any obviously injured parties. Once an agent has assumed or been assigned to maintain the integrity of the crime/disaster scene, the agent shall continue to do so until he/she is relieved by a supervisor or the law enforcement agency having jurisdiction in the area.

#### **406.2.1 FIRST RESPONDER CONSIDERATIONS**

The following list generally describes the steps which the first responder should reasonably attempt to take at a crime or disaster scene. This list is not intended to be all-inclusive, is not necessarily in order and may be altered according to the demands of each situation, the availability of resources, capacity of personnel and totality of each circumstance:

- a. Ensure no suspects are still in the area.
- b. Broadcast emergency information, including all requests for additional assistance.
- c. Provide first aid to injured parties if it can be done safely.
- d. Evacuate the location as required.
- e. Secure the inner and outer perimeter if needed.
- f. Protect items of apparent evidentiary value.
- g. Identify potential witnesses.
- h. Start a chronological log noting critical times and personnel allowed access.

#### **406.3 SEARCHES AT CRIME OR DISASTER SCENES**

Agents arriving at crime or disaster scenes are often faced with the immediate need to search for and render aid to victims and determine if suspects are present and continue to pose a threat. Once agents are satisfied that no additional suspects are present and/or there are no injured persons to be treated, those exigent circumstances will likely no longer exist. Agents

should thereafter secure the scene and conduct no further search until proper authority for the search is obtained.

### **406.3.1 CONSENT**

Agents should obtain consent to search from authorized individuals where possible. However, in the case of serious crimes or major investigations, it may be prudent to obtain a search warrant. Consent may be sought even in cases where a search warrant has been granted.

## **407 Body-Worn Video Recording Devices**

### **407.1 PURPOSE AND SCOPE**

The purpose of this policy is to establish guidelines for the use of Body-Worn Video Recording Devices (BVRD) by California Department of Justice agents while conducting enforcement operations. The term BVRD includes all video recording systems, whether body-worn, handheld or integrated into portable equipment.

The BVRD policy has been specifically designed to meet the mission and investigative functions of the DOJ's law enforcement activities. Because the DOJ is not a "first responder" law enforcement agency, but rather an investigative agency, the language contained in this BVRD policy may not apply to local law enforcement agencies.

This policy does not apply to lawful surreptitious audio/video recordings or the interception of communications for Department-authorized investigative purposes.

The Department has adopted the use of BVRD by uniformed agents for the purpose of:

- a. Collecting evidence for use in criminal investigations and prosecutions;
- b. Deterring criminal activity and uncooperative behavior during agent-public interactions;
- c. Assisting agents with completing reports and providing testimony in court;
- d. Promoting accountability;
- e. Assisting in resolving complaints against agents, including for false allegations by members of the public; and
- f. Providing additional information for agent evaluation, training, and continuous improvement.

BVRD recordings provide additional information regarding investigative or enforcement contacts with members of the public. BVRD recordings, however, provide a limited perspective of the encounter and must be considered with all other available evidence, such as witness statements, agent interviews, forensic analyses, and documentary evidence, when evaluating the appropriateness of any agent's actions.

### **407.2 POLICY**

Agent safety takes precedence over recording enforcement operations. Agents shall follow established agent safety best practices, policies and procedures when conducting enforcement operations as outlined in current policies and procedures. The safety of both DOJ personnel and the public – and not necessarily the ability to record the event – shall be the primary consideration when conducting enforcement operations.

The following conditions apply to use of BVRDs by DOJ agents:

- a. Only authorized personnel shall use or be in possession of a BVRD.
- b. BVRD equipment is for official use only and shall not be utilized for personal reasons.
- c. Personnel shall not tamper with or dismantle any hardware or software component of any BVRD device.
- d. All digital and/or audio recordings captured by Department BVRDs are for official law enforcement use only.
- e. Accessing, copying, forwarding or releasing any digital and/or audio evidence captured by Department BVRDs for any purpose other than official law enforcement use is strictly prohibited. Public release of digital evidence is prohibited unless (1) required under federal and/or state law or (2) approved by the Chief only where **both** the interest in releasing the recording substantially outweighs the need to maintain the recording confidential for law-enforcement purposes, and there is no legal prohibition to releasing the recording.
- f. The use of a secondary recording device such as video camera, cell phone, or other device to record or capture digital and/or audio recordings from a Department BVRD is prohibited unless the operator of the secondary recording device has obtained permission from the Special Agent in Charge and is in full compliance with all of the policies in this section relating to operators of BVRDs. In addition, the operator of the secondary recording device shall ensure any recordings produced therefrom are clearly noted in the investigation report and the recordings are preserved as evidence.
- g. Prior to using a Department-issued BVRD in the field, agents shall attend training in the safe handling and operating of their specific BVRD camera. This training will include:
  1. Camera operation
  2. Proper placement of the camera
    - i. Agents shall wear BVRDs on the front of their uniform shirt, facing forward, at a comfortable, mid-chest level.
  3. Department policy on BVRD use and maintenance
- h. There is no reasonable expectation of privacy for Department personnel who are recorded with BVRD while they are engaged in the official performance of their duties.
- i. Citizens do not have a reasonable expectation of privacy when interacting with law enforcement personnel during the scope of a law enforcement officer's official duties, even when the contact is in a residence. (Pen. Code, § 632 et seq.; *People v. Lucero*

(1987) 190 Cal. App. 3d 1065.) Therefore, agents are not required to give notice that they are recording. If asked, agents shall advise citizens that they are being recorded.

- j. Agents are not required to start or stop recording an incident, contact, or event at the demand of any citizen unless the demand to stop recording the incident relates to the recording of an incident that is prohibited pursuant to Section 407.10.2.
- k. This policy cannot reasonably address every possible circumstance in which the use of a Department BVRD is either appropriate or inappropriate. However, agents may activate their assigned BVRD whenever it is not prohibited by this policy and whenever the agent reasonably believes the produced recording would be useful or valuable to document an incident or be used as evidence.
- l. In general, isolated minor infractions and minor deviations from this BVRD policy that are discovered during the review of BVRD recordings will not result in disciplinary action and will be treated as a training opportunity.

### **407.3 BVRD OPERATION**

- a. The BVRD shall be operated in accordance with the specific instructions provided by DOJ staff with regard to the specific BVRD manufacturer and model device being operated.
- b. When not in use, the BVRD shall be stored in its docking station or other secure location.

### **407.4 BVRD SYSTEM MANAGER**

The System Manager has oversight responsibilities including but not limited to:

- Operation and user administration of the system
- Training
- Coordination with the DOJ Division of Criminal Justice Information System regarding system errors and issues.
- Ensuring retention of BVRD files of evidentiary value as specified in Section 407.10.1.

### **407.5 PRE-ENFORCEMENT OPERATION INSPECTION**

Agent personnel shall inspect their assigned BVRD device prior to conducting a planned enforcement operation to ensure the device is in working order, fully charged, and free of visible damage.

If the BVRD is inoperable or there is visible damage to the device, the agent shall report the damage to his/her supervisor and be issued a temporary device for the planned enforcement operation. The damaged device shall be sent to the Bureau's BVRD System Manager for repair and/or replacement.

No less than on a weekly basis, enforcement team supervisors shall inspect the BVRD docking stations to identify any visible damage and ensure the docking station(s) are working properly. If there is visible damage or the docking station(s) are not working properly, the Bureau's BVRD System Manager shall be contacted to have the stations repaired or replaced.

## **407.6 RECORDING ENFORCEMENT OPERATIONS**

Agent personnel assigned a BVRD shall, whenever reasonably possible, activate the BVRD prior to initiating any investigative or enforcement activity involving a member of the public including all:

- Vehicle stops;
- Foot and vehicle pursuits;
- Situations with the probability of evidence-based prosecution;
- Situations where the potential for the use of force is likely;
- Use of force incidents;
- Situations where a member of the public is becoming verbally or physically combative or abusive;
- Service of search warrants;
- Service of arrest warrants;
- Arrests;
- Consensual contacts and subsequent search of persons, vehicles, and or structures;
- In-custody transports;
- Emergency vehicle operations (Code 3 responses);
- Victim, witness, and subject interviews (except as specified in the exceptions identified below);
- Crowd management and control involving enforcement or investigative contacts, especially those relating to DOJ enforcement activities; and

- Other investigative or enforcement actions when, in any agent's judgment, a video recording would assist in the investigation or prosecution of a crime or when a recording of an encounter would assist in documenting the incident for later investigation or review.

If an agent is unable to activate his or her BVRD prior to initiating any of the aforementioned or investigative activities, the agent shall activate the device as soon as it is practical and safe to do so. As in all enforcement and investigative activities, the safety of agents and members of the public are the highest priorities. Any agent's inability to activate his or her BVRD under circumstances specified in this policy must be fully documented.

Once the recording of any law enforcement encounter has been initiated, agents are not allowed to discontinue recording the event until the law enforcement encounter has been concluded. If an enforcement or investigative activity has been concluded but later resumes, the agent shall reactivate the BVRD device and resume recording.

Exceptions: Agents are not required to activate and record investigative or enforcement encounters with the public when:

- A witness or victim refuses to provide a statement if recorded and the encounter is non-confrontational;
- In the agent's judgment, a recording would interfere with his or her ability to conduct an investigation, or may be inappropriate, because of the victim or witness's physical condition, emotional state, age, or other sensitive circumstances (e.g., a victim of a rape, incest, or other form of sexual assault; or while a victim's or witness's confidential health condition is being revealed);
- Situations where recording would risk the safety of a confidential informant, citizen informant, or undercover agent in the unlikely event they are inadvertently present at the scene of a DOJ enforcement or investigation.

#### **407.6.1 PROHIBITION AGAINST MODIFICATION OF RECORDINGS**

Agents shall not copy, edit, alter, erase, or otherwise modify in any manner BVRD recordings except as authorized by law or Department policy. Any violation of this provision is considered serious misconduct and subject to disciplinary action.

#### **407.6.2 NOTICE TO MEMBERS OF THE PUBLIC OF RECORDING**

Agents are not required to obtain consent from members of the public when the agent is lawfully in the area where the recording takes place. For example, any agent who lawfully enters a business or residence shall record any enforcement or investigative activity, as set forth above, and is not required to obtain consent from members of the public who may be present. In addition, agents are not required to play back BVRD recordings to allow members of the public to review the video footage.

### **407.6.3 PROHIBITION AGAINST RECORDING PERSONNEL IN NON-ENFORCEMENT OR INVESTIGATIVE SITUATIONS**

BVRD equipment shall be used only in conjunction with official law enforcement and investigative activities involving members of the public. BVRD equipment shall not be used to record Department personnel during briefings, meetings or while in private areas such as locker rooms or restrooms.

### **407.6.4 VIEWING OF BVRD RECORDINGS BY AGENTS**

The accuracy of law enforcement reports, agent statements, and other official documentation is essential for the proper administration of justice and to comply with the Department's obligation to maintain full and complete records of enforcement and investigative activities. Agents, supervisors, prosecutors, and other officials rely on complete and accurate records to perform their essential duties and responsibilities. Agents are therefore required to review BVRD recordings on their assigned device or authorized computer prior to documenting any arrest, search, interview, or other enforcement or investigative activity in order to ensure that their reports, statements and other documentation are accurate and complete.

### **407.6.5 PROCEDURE FOR REVIEWING BVRD RECORDINGS IN CRITICAL INCIDENTS**

An agent who is involved in a use-of-force incident, such as an officer-involved shooting, or in a critical incident, including one that results in an in-custody death, shall not review his or her BVRD recording of that incident until authorized to do so by the assigned Professional Standards Group (PSG) investigator. Once authorized, the agent shall review his or her BVRD recording and any other relevant BVRD recordings as deemed necessary and appropriate by the PSG Special Agent in Charge (SAC), prior to being interviewed by investigators. An agent may have an employee representative present during the review of the BVRD recording without the PSG investigator or supervisor being present. The separating and monitoring of officers involved in a critical incident shall be maintained during the review of the BVRD recordings and shall not occur jointly among involved employees.

### **407.6.6 SUPERVISORY DUTIES**

Supervisors are responsible for ensuring the personnel under their command utilize the BVRD in accordance with this policy. Supervisors completing a use-of-force or other critical incident review shall ensure that all relevant BVRD recordings are properly identified and uploaded to the secure storage. Notwithstanding the completion of any use-of-force or other critical incident review, the time requirement for uploading videos as specified in Section 407.10.1 shall not be extended.

## **407.7 CONTACTS EXCLUDED FROM RECORDING**

Many portable recorders, including BVRDs and audio/video transmitters, emit radio waves that could detonate an explosive device. Therefore, these devices (including BVRDs) shall not be used where an explosive device is known or reasonably suspected to be present.

## **407.8 PROHIBITED USE**

- a. Personnel are prohibited from using Department-issued BVRDs for personal use or making personal copies of recordings created while acting in their official capacity. As used in this section, “personal use” is defined as use for any purpose other than the recording of activities in conjunction with an official investigation of the DOJ and for the sole and exclusive objective of furthering that investigation and any prosecution or legal proceeding resulting therefrom.
- b. Personnel are prohibited from retaining recordings of activities or information obtained during enforcement operations, whether the recording was created with Department-issued or personally-owned recorders. Such recordings shall not be duplicated or distributed, except for authorized legitimate Department purposes and court proceedings. All recordings shall be retained by the Department.
- c. Personally-owned recording devices shall not be used during enforcement operations unless expressly authorized by the SAC. Any use of a personally-owned recorder for Department-related enforcement activities shall be in compliance with the provisions of this policy, including retention and release requirements.
- d. Recordings shall not be used for the purpose of embarrassment, intimidation, or ridicule.
- e. The surreptitious recording of any private conversations between law enforcement officers is prohibited.
- f. Unless there is reasonable suspicion to believe that criminal activity is occurring or will occur, agents shall not use BVRDs where citizens are lawfully exercising their freedom of speech, press, association, assembly, religion, or the right to petition the government for redress of grievances. (Protected activity that is unintentionally captured while recording an event as otherwise authorized by this policy is not a violation of this policy.)

## **407.9 DISCRETIONARY USE**

Agents shall not use BVRDs in locations where there is a reasonable expectation of privacy (e.g., dressing rooms, restrooms, or hospital rooms) unless required for capturing evidence or if the agent believes the recording will serve a proper investigative purpose.

BVRDs shall not be used to record the exposure of private body parts, unless required for capturing evidence.

## **407.10 BVRD RECORDINGS**

### **407.10.1 RETENTION**

All evidentiary recordings made by DOJ special agent personnel shall be uploaded to the appropriate Department server by the end of the employee's shift or when the recording device's storage is full, whichever occurs first. Any deviation from this procedure must be preapproved by the agents' immediate supervisor. Employees shall not intentionally delete any recordings.

BVRD files of evidentiary value shall be maintained for no less than 395 days (one year and one month). This retention period may be extended due to pending litigation or with approval from the Bureau Director or designee.

### **407.10.2 VIEWING**

- a. When preparing written reports, agents shall review their recordings as a resource unless prohibited by this policy; however, the existence of a recording shall not be relied upon as a substitute for a detailed, quality investigative report.
- b. Supervisors are authorized to review recordings from the BVRDs of personnel assigned to their team. They may view these recordings for any legitimate Department or law enforcement purpose.
- c. Recordings may also be reviewed for the following reasons:
  1. With the approval of the DLE Chief or any member of the Department who is conducting an official investigation, whether civil, personnel, administrative, or criminal;
  2. Pursuant to a court order or request from a prosecuting attorney in furtherance of a prosecution; or
  3. For training purposes, with the approval of the Chief.
- d. Dissemination or viewing of recordings outside the Department is strictly prohibited without specific authorization or as required by court order, subpoena, or federal or state law.
- e. Authorized Department personnel may view BVRD recordings for the following purposes:
  1. Complaint

2. Criminal investigation
3. Agent-involved shooting
4. Vehicle pursuit investigation or review
5. Use of force investigation or review
6. Training
7. Quality control and troubleshooting of the BVRD

### **407.10.3 REQUESTS FOR BVRD RECORDINGS**

Requests from non-DOJ entities, including the United States Attorney's Office, the District Attorney's Office, the City Attorney's Office, or other prosecuting agency, must be submitted in writing. The written request must provide sufficient information to identify and locate the particular BVRD recording(s) being sought and the basis for the request.

A copy of a BVRD recording may only be made by the System Manager or an administrator from Evidence.com as outlined in this policy. The System Manager will make the requested copy and distribute it as requested. In the absence of the System Manager, an administrator from Evidence.com may make the requested copy and distribute it as requested.

### **407.10.4 CONFIDENTIAL NATURE OF BVRD RECORDINGS**

The production and viewing of BVRD recordings is limited to enforcement and investigative activities involving members of the public. The BVRD recordings will capture visual and audio evidence for use in criminal investigations, administrative reviews, and other proceedings protected by confidentiality laws and Department policies. Agents shall comply with all applicable laws and policies regarding confidential information contained in the DOJ Law Enforcement Policy and Procedures Manual. Unauthorized use or release of BVRD recordings may compromise ongoing criminal and administrative investigations or violate the privacy rights of those recorded. Therefore, any unauthorized use or release of BVRD recordings or other violations of confidentiality laws and Departmental policies are considered serious misconduct and any violations of any laws or policies related thereto will result in disciplinary action.

### **407.10.5 CHIEF'S AUTHORITY TO RELEASE BVRD RECORDINGS**

Notwithstanding the foregoing section, the DLE Chief is authorized to release BVRD recordings only where **both** the interest in releasing the recording substantially outweighs the need to maintain the recording confidential for law-enforcement purposes, and there is no legal prohibition to releasing the recording. Any BVRD recordings that are released pursuant to this section shall contain only the video or audio portion(s) that directly relate(s) to the cause of the public's concern.

## **410 Ride-Along Policy**

### **410.1 PURPOSE AND SCOPE**

The Ride-Along Program provides an opportunity for citizens to experience the law enforcement function first hand. This policy provides the requirements, approval process, and hours of operation for the Ride-Along Program.

#### **410.1.1 ELIGIBILITY**

The California Department of Justice Ride-Along Program is offered to residents, students and those employed within the State. Every attempt will be made to accommodate interested persons; however, any applicant may be disqualified without cause.

The following factors may be considered in disqualifying an applicant and are not limited to:

- Being under 15 years of age
- Prior criminal history
- Pending criminal action
- Pending lawsuit against the Department
- Denial by any supervisor

#### **410.1.2 AVAILABILITY**

The Ride-Along Program is available on most days of the week, with certain exceptions. The ride-along times are from 10:00 a.m. to 11:00 p.m. Exceptions to this schedule may be made as approved by the Chief, Bureau Director, or SAC.

### **410.2 PROCEDURE TO REQUEST A RIDE ALONG**

Generally, ride-along requests will be scheduled by the SAS. The participant will complete a Waiver of Liability form (BNE 29). Information requested will include a valid ID or California driver's license, address, and telephone number. If the participant is under 18 years of age, a parent/guardian must be present to complete the BNE 29.

The SAS will schedule a date, based on availability, at least one week after the date of application. If approved, a copy will be forwarded to the respective SAC as soon as possible for his/her scheduling considerations.

If the ride-along is denied after the request has been made, a representative of the Department will contact the applicant and advise him/her of the denial.

## **410.2.1 PROGRAM REQUIREMENTS**

Once approved, civilian ride-alongs will be allowed to ride no more than once every six months. An exception would apply to the following: Chaplains, Reserves, bureau applicants, and all others with approval of the SAC.

An effort will be made to ensure that no more than one citizen will participate in a ride-along during any given time period. Normally, no more than one ride-along will be allowed in the agent's vehicle at a given time.

## **410.2.3 PEACE OFFICER RIDE-ALONGS**

Off-duty members of this department or any other law enforcement agency will not be permitted to ride-along with on-duty agents without the expressed consent of the SAC. In the event that such a ride-along is permitted, the off-duty employee shall not be considered on-duty and shall not represent themselves as a peace officer or participate in any law enforcement activity except as emergency circumstances may require.

## **410.2.4 RIDE-ALONG 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 through CLETS prior to their approval as a ride-along with a law enforcement officer (provided that the ride-along is not an employee of the California Department of Justice) (CLETS Policies, Practices and Procedures Manual § 1.6.1.D.3.).

## **410.3 AGENT'S RESPONSIBILITY**

Agents shall consider the safety of the ride-along at all times. Agents should use sound discretion when encountering a potentially dangerous situation, and if feasible, let the participant out of the vehicle in a well-lighted place of safety. The base station operator or agent's supervisor will be advised of the situation and, as soon as practical, have another bureau unit respond to pick up the participant at that location. The ride-along may be continued or terminated at this time.

The SAS is responsible for maintaining and scheduling ride-alongs. Upon completion of the ride-along, the BNE 29 form shall be returned to the SAS with any comments offered by the agent. The completed BNE 29 form shall be retained by the regional office for three years.

## **410.4 CONTROL OF RIDE-ALONG**

The assigned employee shall maintain control over the ride-along at all times and instruct him/her in the conditions that necessarily limit their participation. These instructions should include:

- a. The ride-along will follow the directions of the agent.
- b. The ride-along will not become involved in any investigation, handling of evidence, discussions with victims or suspects, or handling any bureau equipment.
- c. The ride-along may terminate the ride at any time and the agent may return the observer to their home or to the station if the ride-along interferes with the performance of the agent's duties.
- d. Ride-alongs may be allowed to continue riding during the transportation and booking process provided this does not jeopardize their safety.
- e. Agents will not allow any ride-alongs to be present in any residences or situations that would jeopardize their safety or cause undue stress or embarrassment to a victim or any other citizen.
- f. Under no circumstance shall a civilian ride-along be permitted to enter a private residence with an agent without the expressed consent of the resident or other authorized person.

## **412 Hazardous Material Response**

### **412.1 PURPOSE AND SCOPE**

Hazardous materials present a potential harm to employees resulting from their exposure. Nothing in this policy is intended to supersede any component of the BFS Quality Management System.

#### **412.1.1 HAZARDOUS MATERIAL DEFINED**

A hazardous material is a substance which by its nature, containment and reactivity, has the capability of inflicting harm during exposure; characterized as being toxic, corrosive, flammable, reactive, an irritant or strong sensitizer and thereby posing a threat to health when improperly managed.

### **412.2 HAZARDOUS MATERIAL RESPONSE**

Employees may encounter situations involving suspected hazardous materials, such as at the scene of a traffic accident, chemical spill, or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

The following steps should be considered at any scene involving suspected hazardous materials:

- a. Attempt to identify type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from person transporting).
- b. Notify the Fire Department.
- c. Provide first-aid for injured parties if it can be done safely and without contamination.
- d. Begin evacuation of immediate area and surrounding areas dependent on substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
- e. Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 10215).
- f. Notify the Department of Toxic Substances Control. This is mandatory when comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety § 25354.5).

## **412.3 REPORTING EXPOSURE(S)**

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee in an employee memorandum that shall be forwarded via chain of command to the Bureau Director. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the memorandum.

Injury or illness caused or believed to be caused from exposure to hazardous materials shall be reported the same as any other on-duty injury or illness as provided in DOJAM § 06800 et seq. in addition to a crime report or incident report.

### **412.3.1 SUPERVISOR RESPONSIBILITY**

When a supervisor has been informed that an employee has been exposed to a hazardous material, he/she shall ensure that immediate medical treatment is obtained and appropriate action is taken to lessen the exposure.

To ensure the safety of employees, safety equipment is available through supervisory personnel. Safety items not maintained by the Department will be obtained through the Fire Department.

## **414 Hostages and Barricaded Suspects**

### **414.1 PURPOSE AND SCOPE**

Hostage situations and barricaded suspects present unique problems for agencies. The protection of the public and law enforcement personnel is of the utmost importance. Proper planning and training will tend to reduce the risks involved with these incidents.

#### **414.1.1 DEFINITIONS**

**Hostage** - A person held by one party in a conflict as security so that specified terms will be met by the opposing party.

**Barricaded Suspect** - A person who takes a position of cover or concealment or maintains a position in a structure and who resists capture by law enforcement personnel. A barricaded suspect may be armed or suspected of being armed.

### **414.2 HOSTAGE NEGOTIATIONS**

Promises of immunity or leniency and payment of ransom demands are rarely effective and will generally not be offered to barricaded suspects. Trained hostage negotiators, however, will be permitted to exercise flexibility in each situation based upon the circumstances presented and consistent with their training. The local, state or federal law enforcement agency having jurisdiction in the location of the hostage situation shall take the lead in the negotiations.

Personnel involved in barricaded/hostage situations are urged to exercise patience and extreme caution. The use of deadly force against any armed suspect will be governed by Policy Manual § 300, with particular regard directed toward the safety of hostages.

### **414.3 FIRST RESPONDER RESPONSIBILITY**

Until the Incident Commander has been designated, the first agent on the scene of an actual or potential hostage/barricade situation shall consider the following:

- a. Attempt to avoid confrontation in favor of controlling and containing the situation until the arrival of trained personnel and/or trained hostage negotiation personnel
- b. Notification of tactical and hostage negotiation personnel
- c. Notification of appropriate persons within and outside the agency, such as command officers, dog handlers, or helicopter pilots
- d. Establishment of inner and outer perimeters
- e. Evacuation of bystanders and injured persons

- f. Establishment of central command post and appropriate chain of command
- g. Request for ambulance, rescue, fire and surveillance equipment
- h. Authorization for news media access and news media policy
- i. Pursuit/surveillance vehicles and control of travel routes

#### **414.4 REPORTING**

Unless otherwise relieved by a supervisor, the initial agent at the scene is responsible for completion of reports or coordination of reports for the hostage/barricade incident.

If the Critical Event Response Plan is implemented, the DLE Incident Commander shall prepare an After-Action Report summarizing the event.

## **416 Response to Bomb Calls**

### **416.1 PURPOSE AND SCOPE**

These guidelines have been prepared to assist agents in their initial response to incidents involving explosives, explosive devices, or explosion/bombing 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 shall always be the primary consideration.

### **416.2 FOUND EXPLOSIVES/SUSPECT DEVICES**

When an agent encounters a suspected explosive device, the following guidelines shall be followed:

- a. Call for assistance from the local agency bomb squad having jurisdiction at the location.
- b. No known or suspected explosive item should be considered safe regardless of its size or apparent packaging.
- c. Secure the perimeter for a minimum of three hundred feet allowing for an entrance for support personnel.
- d. Relay as much initial information as possible to the SAC/SAS and local authorities without touching the device, including:
  1. The stated threat.
  2. How made.
  3. Exact comments.
  4. Time.
  5. Location.
  6. Full description (e.g., size, shape, markings) of the device in question.
- e. Do not touch or transport the device to any other location.
- f. Do not transmit on any equipment that produces radio frequency energy within 300 feet. This includes two-way radios, cell phones and other personal communication devices. Consideration should be given to the possibility for evacuation if a device is located within a building.
- g. Secure a perimeter around the suspected device.

- h. Consideration for support personnel such as paramedics and Fire Department personnel.
- i. A search of the area should be conducted for secondary devices or other objects foreign to the area.
- j. Found explosive or military ordnance of any type should be handled only by the Bomb Squad.
- k. When in doubt, call for assistance from the Sheriff's Department Bomb Squad.

### **416.3 EXPLOSION/BOMBING INCIDENTS**

When an explosion has occurred, there are multitudes of considerations which may confront the responding agent. As in other catastrophic incidents, a rapid response may help to minimize injury to victims, contamination of the scene by gathering crowds, or additional damage by resulting fires or unstable structures. Whether the explosion was the result of an accident or a criminal act, the responding agents should consider the following actions:

- Assess the scope of the incident, including the number of victims and extent of injuries.
- Assist with first aid (Fire Department has primary responsibility).
- Assist with evacuation of victims (Fire Department has primary responsibility).
- Identify and take appropriate precautions to mitigate scene hazards such as collapsed structures, bloodborne pathogens, hazardous materials and secondary explosive devices.
- Request additional resources as needed.
- Identify witnesses.
- Preserve evidence.

#### **416.3.1 NOTIFICATIONS**

When an explosion has occurred, the following people shall be notified as soon as practicable if their assistance is needed:

- a. Fire Department
- b. Local agency Bomb Squad
- c. Additional field agents (if requested by the local agency)
- d. Bureau Director

- e. SAC
- f. DLE Incident Commander
- g. Bureau of Forensic Services, if necessary

### **416.3.2 CROWD CONTROL**

No one should be allowed free access to the scene unless they have a legitimate and authorized reason for being there.

### **416.3.3 SCENE OF INCIDENT**

As in any other crime scene, steps should immediately be taken to preserve the scene. The scene could be extended for several hundred feet. Evidence may be imbedded in nearby structures or hanging in trees and bushes, etc.

### **416.4 BOMB THREATS RECEIVED AT A DOJ FACILITY**

This procedure shall be followed should a bomb threat call be received at a DOJ facility.

#### **416.4.1 BOMB THREATS RECEIVED BY TELEPHONE**

The following questions should be asked if a call of a bomb threat is received at a DOJ facility:

- When is the bomb going to explode?
- Where is the bomb?
- What kind of bomb is it?
- What does it look like?
- Why did you place the bomb?
- Who are you? (to avoid possible termination of the call, this should be the last question asked)

Attempt to keep the caller on the line as long as possible and obtain expanded answers to these five basic questions.

During this time, document the following:

- Time of the call
- Exact words of the person as accurately as possible

- Estimated age and gender of the caller
- Speech patterns and/or accents
- Background noises

If the incoming call is received at the facility on a recorded line, steps shall be taken to ensure that the recording is preserved in accordance with current division evidence procedures.

#### **416.4.2 RESPONSIBILITIES**

As soon as a bomb threat has been received, the SAC will be advised and fully informed of the details. The SAC will immediately notify the CHP, then direct and assign agents as required for coordinating a general building search or evacuation as he/she deems appropriate.

## **418 Mental Illness Commitments**

### **418.1 PURPOSE AND SCOPE**

The following procedures apply to contacts with Welfare and Institutions Code § 5150 detainees.

### **418.2 AUTHORITY**

Welfare and Institutions Code § 5150 provides:

"When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.

"Such facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled. If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, such person shall be liable in a civil action for intentionally giving a statement which he or she knows to be false."

Taking a person into custody under these provisions does not constitute an arrest.

### **418.5 CONFISCATION OF FIREARMS AND OTHER WEAPONS**

When an agent detains a person pursuant to Welfare and Institutions Code § 5150, the agent is required to confiscate all firearms and deadly weapons the person is found to own, possess, or control (Welfare and Institutions Code § 8102 (a)). A "deadly weapon" is any weapon prohibited under Penal Code § 12020 (Welfare and Institutions Code § 8102 (e)).

Penal Code § 1524 (a)(10) now provides grounds for obtaining a search warrant to seize the weapons. Exigent circumstances and consent would also provide exceptions to the warrant requirement so that the firearms and weapons could be seized immediately. (Refer to Chapter 3 of the *California Peace Officers Legal Sourcebook*, Policy Manual § 106.5.3.)

If the agent confiscates firearms or deadly weapons, the agent is required to notify the person of the procedure for the return of weapons, as provided in Welfare and Institutions Code § 8102. Whenever firearms are confiscated, the agent should issue a receipt and list the serial or identification on the firearms (Penal Code § 12028.7(a)).

## **422 Arrest or Detention of Foreign Nationals**

### **422.1 PURPOSE AND SCOPE**

Article 36 of the Vienna Convention on Consular Relations sets forth certain rights of foreign nationals from member countries when arrested, detained or imprisoned by law enforcement officials in this country. This section provides direction to agents when considering a physical arrest or detention of a foreign national. All Foreign Service personnel shall be treated with respect and courtesy, regardless of the level of established immunity. As noted herein, the United States is a party to several bilateral agreements that obligate authorities to notify the consulate upon the person's detention, regardless of whether the detained person requests that his/her consulate be notified. The list of specific countries that the United States is obligated to notify is listed on the U.S. Department of State website. Effective January 1, 2000, California adopted a consular notification statute based on the Vienna Convention requirements. In California, consular notification is mandated on every peace officer pursuant to Penal Code § 834c.

#### **422.1.1 DEFINITIONS**

**Foreign National** - Anyone who is not a citizen of the United States (U.S.). A person with dual citizenship, U.S. and foreign, is not a foreign national.

**Immunity** - Refers to various protections and privileges extended to the employees of foreign governments who are present in the U.S. as official representatives of their home governments. These privileges are embodied in international law and are intended to ensure the efficient and effective performance of their official "missions" (i.e., embassies, consulates, etc.) in foreign countries. Proper respect for the immunity to which an individual is entitled is necessary to ensure that U.S. diplomatic relations are not jeopardized and to maintain reciprocal treatment of U.S. personnel abroad. Although immunity may preclude U.S. courts from exercising jurisdiction, it is not intended to excuse unlawful activity. It is the policy of the U.S. Department of State's Office of Foreign Missions (OFM) that illegal acts by Foreign Service personnel should always be pursued through proper channels. Additionally, the host country's right to protect its citizens supersedes immunity privileges. Peace officers may intervene to the extent necessary to prevent the endangerment of public safety or the commission of a serious crime, regardless of immunity claims.

### **422.2 ARREST OR DETENTION OF FOREIGN NATIONALS**

Agents should take appropriate enforcement action for all violations observed, regardless of claims of diplomatic or consular immunity received from violators. A person shall not, however, be subjected to in-custody arrest when diplomatic or consular immunity is claimed by the individual or suspected by the agent, and the agent has verified or reasonably suspects that the claim of immunity is valid.

## **422.3 LEVELS OF IMMUNITY**

The specific degree of immunity afforded to Foreign Service personnel within the U.S. is directly related to their function and position in this country.

### **422.3.1 DIPLOMATIC AGENTS**

Diplomatic agents (e.g., ambassadors and United Nations representatives) are afforded the highest levels of immunity. They are exempt from arrest or detention and are immune from all criminal (and most civil) prosecution by the host state. The family members of diplomatic agents enjoy these same immunities. Currently there are no diplomatic agents permanently assigned to California; but they do occasionally visit the state.

### **422.3.2 CONSULAR OFFICERS**

Consular officers are the ranking members of consular posts who perform various formal functions on behalf of their own governments. Typical titles include consul general, consul, and vice consul. These officials are immune from arrest or detention, except pursuant to a felony warrant. They are only immune from criminal and civil prosecution arising from official acts. This official acts immunity must be raised as an affirmative defense in the court jurisdiction, and its validity is determined by the court. Under this defense, the prohibited act itself must have been performed as an official function. It is not sufficient that the consular agent was on-duty or in an official capacity at the time of the violation. The family members of consular officers generally enjoy no immunity, however, any family member who enjoys a higher level of immunity is issued an identification card by Department of State (DOS) enumerating any privileges or immunities on the back of the card. Examples are consular officers and family members from Russia or China.

There are approximately 600 consular officers in California, with most located in Los Angeles, San Francisco and San Diego.

### **422.3.3 HONORARY CONSULS**

Honorary consuls are part-time employees of the country they represent and are either permanent residents of the U.S. or U.S. nationals (unlike career consular officers, who are foreign nationals on temporary assignment to the U.S.). Honorary consuls may be arrested and detained; limited immunity for official acts may be available as a subsequent defense. Family members have no immunity. There are less than 100 honorary consuls in California.

## **422.4 IDENTIFICATION**

All diplomatic and consular personnel who are entitled to immunity are registered with the Department of State and are issued distinctive identification cards by the Department of State

Protocol Office. These cards are the best means of identifying Foreign Service personnel. They include a photograph, identifying information, and, on the reverse side, a brief description of the bearer's immunity status. Unfortunately, these identification cards are not always promptly issued by the Department of State. In addition to the Department of State identification card, Foreign Service personnel should also have a driver license issued by the Department of State Diplomatic Motor Vehicle Office (DMVO), which in most circumstances replaces the operator's license issued by the state. Additionally, they may have California credentials issued by the Governor's Office of Emergency Services (OES), Law Enforcement Division.

#### **422.4.1 VEHICLE REGISTRATION**

Vehicles that are owned by foreign missions or Foreign Service personnel and their dependents are registered with the Department of State OFM and display distinctive red, white, and blue license plates. Vehicles assigned to diplomatic or consular officers will generally have license plates labels with the words "diplomat" or "consul." Vehicles owned by honorary consuls are not issued OFM license plates; but may have California license plates with an "honorary consul" label. Driver's identity or immunity status should not be presumed from the type of license plates displayed on the vehicle. The status of an OFM license plate should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state, if the agent has reason to question the legitimate possession of the license plate.

#### **422.5 ENFORCEMENT PROCEDURES**

The following procedures provide a guideline for handling enforcement of foreign nationals:

##### **422.5.1 CITABLE OFFENSES**

An enforcement document shall be issued at the scene for all violations warranting such action, regardless of the violator's immunity status. The issuance of a citation is not considered an arrest or detention under current Department of State guidelines. Whenever the equivalent of a notice to appear is issued to an immunity claimant, the following additional procedures shall be followed by the arresting agent:

- a. Local law enforcement agencies shall be utilized whenever possible to facilitate the citing and releasing of the claimant.
- b. Identification documents are to be requested of the claimant.
- c. The title and country represented by the claimant are to be recorded on the back of the agent's copy of the Notice to Appear for later reference. Do not include on the face of the notice to appear.
- d. The claimant shall be requested to sign the notice to appear. If the claimant refuses, the identity and immunity status of the individual shall be conclusively established.

- e. Verified diplomatic agents and consular officers, including staff and family members from countries with which the U.S. has special agreements, are not required to sign the Notice to Appear. The word "Refused" shall be entered in the signature box, and the violator shall be released.
- f. Verified consular staff members, excluding those from countries with which the U.S. has special agreements, are generally obligated to sign the Notice to Appear, but a signature shall not be required if their immunity status is uncertain.
- g. All other claimants are subject to the provisions of Vehicle Code § 40302(b) and policy and procedures outlined in this chapter.
- h. The violator shall be provided with the appropriate copy of the notice to appear.

## **422.5.2 IN-CUSTODY ARRESTS**

Diplomatic agents and consular officers are immune from arrest or detention (unless they have no identification and the detention is to verify their diplomatic status). Proper identification of immunity claimants is imperative in potential in-custody situations. Claimants who are not entitled to immunity shall be placed in custody in accordance with the provisions outlined in Policy Manual § 422.6 of this policy.

A subject who is placed under arrest and claims diplomatic or consular immunity shall not be physically restrained before verification of the claim (unless restraint is necessary for the protection of the agent or others).

A supervisor shall be promptly notified and should respond to the scene when possible. Field verification of the claimant's identity is to be attempted as follows:

- a. Identification cards issued by the Department of State, Protocol Office, are the only valid evidence of diplomatic or consular immunity. The following types of identification cards are issued: Diplomatic (blue bordered), Consular (red bordered), and Official (green bordered). The Department of State identification cards are 3-3/4 inch by 1-1/2 inch and contain a photograph of the bearer.
- b. Initiate telephone verification with the Department of State. Newly arrived members of diplomatic or consular missions may not yet have official Department of State identity documents. Verify immunity by telephone with the Department of State any time an individual claims immunity and cannot present satisfactory identification, the agent has reason to doubt the claim of immunity, or there is a possibility of physical arrest. Law enforcement personnel should use the following numbers in order of preference:

Office of Foreign Missions  
San Francisco, CA  
(415) 744-2910, Ext. 22 or 23

Office of the Foreign Missions  
Los Angeles, CA  
(310) 235-6292, Ext. 121 or 122

(415) 744-2913 FAX  
(0800-1700 PST)

Office of Foreign Missions  
Diplomatic Motor Vehicle Office  
Washington D.C.  
(202) 895-3521 (Driver License Verification) or  
(202) 895-3532 (Registration Verification)  
(202) 895-3533 FAX  
(0815-1700 EST)

(310) 235-6297 FAX  
(0800-1700 PST)

Department of State  
Diplomatic Security Service  
Command Center  
Washington D.C.  
(202) 647-7277  
(202) 647-1512  
(Available 24 hours)  
(202) 647-0122 FAX

Members of diplomatic or consular missions also may have other forms of identification. These include identification cards issued by California Emergency Management Agency (Cal EMA), local law enforcement agencies, the foreign embassy, or consulate; driver licenses issued by Department of State; and, Department of State license indicia on the vehicle. All these items are only an indication that the bearer may have some form of immunity.

Subjects verified through the above procedures as being officials entitled to immunity (diplomatic agent, consular officers and consular staff and family members from countries with which the U.S. has special agreements) may not be arrested. The procedures below shall be followed. These procedures should also be used in the event immunity cannot be verified, but another form of identification indicates that immunity is probable.

If the release of the violator will not create an additional hazard, adequate information to properly identify the violator shall be obtained then the official shall be released. A supervisor's approval for the release shall be obtained whenever possible. The necessary release documents and/or a Certificate of Release form should only be issued under the proper conditions.

If the violator appears to have been driving while under the influence, the local law enforcement agency having jurisdiction or the CHP should be contacted and field sobriety tests, including Preliminary Alcohol Screening (PAS) device tests and chemical tests should be offered and obtained whenever possible; however, these tests cannot be compelled. The subject shall not be permitted to drive. A supervisor's approval for release shall be obtained whenever possible and alternative transportation should be arranged.

All facts of the incident shall be documented in accordance with this policy in a Driving Under the Influence (DUI) Arrest-Investigation Report, Arrest-Investigation Report and/or any other relevant Report form. Notwithstanding the field release of the subject, prosecution is still appropriate and should be pursued by the command concerned. The Department of State will take appropriate sanctions against errant Foreign Service personnel, even where prosecution is not undertaken by the agency.

## **422.6 TRAFFIC COLLISIONS**

Persons involved in traffic collisions who possess a Department of State OFM Diplomatic Driver License, issued by the DMVO, shall be referred to the CHP or appropriate local law enforcement agency.

### **422.6.1 VEHICLES**

Vehicles, which are owned by subjects with full immunity, may not be searched, stored, or impounded without the owner's permission. (Such permission may be assumed if the vehicle has been stolen.) These vehicles may, however, be towed the necessary distance to remove them from obstructing traffic or creating any other hazard.

### **422.6.2 REPORTS**

A photocopy of each report involving an identified diplomat and/or immunity claimant shall be forwarded to the Office of the Chief within 48 hours whether or not the claim is verified. The words "Immunity Claim" shall be marked on the photocopy, together with a notation of the claimant's title, country, and type of identification presented (if applicable). In addition to the report, a follow-up cover memorandum should be submitted if the violation was flagrant, if the claimant was uncooperative, or if there were any other unusual aspects of the enforcement contact that should be reported to the Department of State for further action. The SAC apprised of the incident/accident shall also send a copy of all documents and reports submitted by the investigating agent along with any supervisor's notes, materials and/or logs to the Chief's office within 48 hours of the incident. The Chief's office will check to ensure that notification of Department of State and all necessary follow-up occur.

## **422.7 FOREIGN NATIONALS WHO DO NOT CLAIM IMMUNITY**

After a lawful detention or criminal arrest, agents shall not detain foreign nationals solely for alleged presence in the U.S. while lacking an authorized immigration status. While agents will not typically be in a position to respond to a hold request by an immigration authority because DOJ does not operate detention facilities, to avoid any doubt, agents shall not detain an individual on the sole basis of a hold request by an immigration authority.

### **422.7.1 ARREST PROCEDURE**

Whenever an agent physically arrests or detains an individual for criminal investigation and the agent reasonably believes the person to be a foreign national, the agent shall inquire to determine the person's citizenship.

This procedure applies to detentions of more than two hours. An inquiry is not required if the individual is detained less than two hours for criminal investigation.

If the individual indicates that he/she is other than a U.S. citizen, the agent shall advise the individual that he/she has a right to have the nearest appropriate embassy or consulate notified of the arrest/detention.

If the individual requests such notification, the agent shall contact the Command Center as soon as practical and request the appropriate embassy/consulate be notified. Agents shall provide the Command Center with the following information concerning the individual:

- Country of citizenship.
- Full name of individual, including paternal and maternal surname if used.
- Date of birth or age.
- Current residence.
- Passport number, date of issuance, place of issuance.
- Time, date, place, location of incarceration/detention, and the 24-hour telephone number of the place of detention if different from the Department itself.
- Report number.

If the individual claims citizenship of one of the countries for which notification of the consulate/embassy is mandatory, agents shall provide the Command Center with the information above as soon as practicable, regardless of whether the individual desires the embassy/consulate to be notified. This procedure is critical because of treaty obligations with the particular countries. The list of countries and jurisdictions that require notification can be found on the U.S. Department of State website.

## **422.7.2 DOCUMENTATION**

Agents shall document on the face page and in the narrative of the appropriate Investigation Report the date and time the Command Center was notified of the foreign national's arrest/detention and his/her claimed nationality. The Command Center shall fax a completed Consular and/or Embassy Notification of Arrest of Foreign National form (DLE 207) to the nearest appropriate foreign consulate or embassy. The operator shall retain the DLE 207 in the assigned file and, if the fax was unsuccessful, the operator shall notify the consulate or embassy by telephone. The Command Center shall notify the arresting/detaining agent when the notification has been made.

## **424 Rapid Deployment Team Policy**

### **424.1 PURPOSE AND SCOPE**

Violence in schools, workplaces and other locations by any individual or group of individuals presents a difficult situation for law enforcement. The purpose of this policy is to identify guidelines and factors that will assist responding agents as they make decisions in these rapidly unfolding and tense situations.

### **424.2 POLICY**

The policy of this department in dealing with the crisis situation shall be:

- a. To obtain and maintain complete operative control of the incident.
- b. To explore every reasonably available source of intelligence regarding the circumstances, location, and suspect(s) in the incident.
- c. To attempt, by every means available, to attain any tactical advantage over the responsible individual(s).
- d. To attempt, whenever feasible, a negotiated surrender of the suspect(s) and release of the hostages through the expertise of the members of this department and others.
- e. When an emergency situation exists, neutralize the threat as rapidly as reasonably possible to minimize injury and loss of life.

Nothing in this policy shall preclude the use of necessary force, deadly or otherwise, by members of this department in protecting themselves or others from death or serious injury.

### **424.3 PROCEDURE**

If there is a reasonable belief that acts or threats by a suspect are placing lives in imminent danger, first responding agents should consider reasonable options to immediately eliminate the threat. Agents must decide, often under a multitude of difficult and rapidly evolving circumstances, whether to advance on the suspect, take other actions to deal with the threat or wait for additional resources.

When deciding on a course of action agents should consider:

- a. Whether sufficient personnel are available on-scene to advance on the suspect. Any advance on a suspect should be made using teams of two or more agents whenever reasonably possible.

- b. Whether individuals who are under imminent threat can be moved out of danger with reasonable safety.
- c. Whether the agents have the ability to effectively communicate with others in the field.
- d. Whether planned tactics can be effectively deployed.
- e. The availability of rifles, shotguns, shields, control devices and any other appropriate tools, and whether the deployment of these tools will provide a tactical advantage.
- f. In a case of a barricaded suspect with no hostages and no immediate threat to others, agents should consider summoning and waiting for additional assistance (special tactics and/or hostage negotiation team response).
- g. If a suspect is actively engaged in the infliction of serious bodily harm or other life-threatening activity toward others, the agent(s) should take immediate action, if reasonably possible, to stop the threat presented by the suspect while calling for additional assistance.

## **426 Police Activity in Other Jurisdictions**

### **426.1 PURPOSE AND SCOPE**

This policy provides general guidelines for reporting police activity while on or off-duty and occurring in other jurisdictions.

#### **426.1.1 ASSISTANCE TO OUTSIDE AGENCIES**

When an agent is on-duty and is requested by an allied agency to participate in law enforcement activity in another jurisdiction, he/she shall obtain prior approval from the immediate supervisor or the SAC. If the request is of an emergency nature, the agent shall notify a supervisor as soon as practical.

#### **426.1.2 LAW ENFORCEMENT ACTIVITY IN LOCAL JURISDICTIONS**

A local law enforcement agency must be notified in advance of an agent conducting a tactical enforcement operation within the agency's jurisdiction. Notification will be made by the SAC or designee, except under the following circumstances:

- a. If the nature of the information indicates that notification at the field enforcement level of a local agency may compromise an investigation or pose a threat to the agent's safety, the responsible SAC will notify the local agency's chief administrator of the circumstances and request the chief administrator's cooperation in maintaining the confidentiality of the investigation at the field level.
- b. In the event that reliable information is received implicating a local agency's department head in illegal activity which may cause the investigation or agent's undercover operation or safety to be compromised, the SAC may grant an authorization to exempt personnel attached to the investigation from this notification policy. In this situation, the SAC shall notify their Bureau Director immediately of the circumstances justifying this exemption prior to initiating enforcement action or in any way continuing the investigation.
- c. In major metropolitan areas where it is possible for the activities associated with an investigation to cross multiple local agency areas of responsibility in a short time, such as a covert surveillance or pursuit, local agency notification need not be made prior to investigative activity if such notification would hamper or unnecessarily delay the investigative activity of the agent.
- d. In addition, the mere passage of the suspect or agent through numerous jurisdictions while en route to the primary locale of an investigation or arrest does not mandate the need for notification of the local agencies except those in which the above-listed investigative activities are anticipated. Those agency jurisdictions wherein the primary case activity will occur shall be notified. However, during a multi-jurisdictional case,

agents should notify the appropriate war room, watch center or Narcotic Information Network (NIN) in accordance with established policy.

At the conclusion of the enforcement activity, the SAC or designee will make an exit notification to advise the local agency of the event's termination. Should the enforcement activity result in a noteworthy incident (large seizure, arrest of numerous persons, etc.), this information should likewise be conveyed to the local agency.

## **426.2 OVERLAPPING INVESTIGATIONS**

If, during an investigation, it is learned that a federal, state, or local law enforcement agency is working on the same case or is using the same undercover operator that is being used by the Division, the agent shall immediately report the information to his/her SAS, who shall notify the SAC/TFC.

The SAC/TFC or designee shall contact the proper official in charge of the federal, state, or local law enforcement investigation and make whatever arrangements are necessary, either to work on the case as a joint investigation, arrange for one of the agencies to withdraw from the investigation, or enter into any other appropriate working relationship.

## **426.3 INVESTIGATIONS IN OTHER AREAS OF RESPONSIBILITY**

Whenever, in the best interests of an investigation, information or investigative action pertains to a geographic area which is the responsibility of another regional office, the information shall be forwarded to the appropriate SAC or designee.

If the regional office initiating the investigation elects to maintain control of the investigation and follow it through into the jurisdiction of another regional office, the initiating office shall be responsible for sending a sufficient number of personnel to complete the investigation. This includes the preparation of search warrants, arrests, investigative reports, handling of evidence, and filing of complaints.

The initiating regional office SAC or designee shall communicate with the SAC or designee of the regional office of jurisdiction and coordinate the activities of the investigation. If the regional office of jurisdiction supplies the majority of the resources, that office shall assume responsibility and control of the investigation. If this occurs, the agents traveling to the area of the regional office with jurisdiction shall report to and be under the supervision of the SAC of that area unless other arrangements have been made between the SACs involved.

## **427 Operating in a Foreign Country**

### **427.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide specific direction to employees with an operational need to travel outside of the United States.

### **427.2 POLICY**

No employee, with the exception of members of the BI Foreign Prosecution and Law Enforcement Unit (FPLEU), shall enter a foreign country to conduct official business without prior written notification to and approval from his/her Bureau Director or designee and the Chief or designee. TFCs shall not permit non-DOJ members of their task force to enter a foreign country on official task force business without the prior approval of the Chief, the Bureau Director, and the head of the member's parent agency.

Due to the sensitivity of working in a foreign country, including Mexico, and the potential for violating laws and/or protocols of which the employee may be unaware, it is imperative that the FPLEU be consulted before any employee travels abroad. The FPLEU shall be notified by the employee prior to each entry into a foreign country on official business unless an exemption is obtained from the Chief or designee. The assistance of the FPLEU should be utilized as appropriate when planning or implementing official activities in a foreign country.

FPLEU personnel shall notify their Bureau Director, via the chain of command, before each entry into a foreign country to conduct official business.

### **427.3 REQUEST FOR APPROVAL**

All requests to enter a foreign country to conduct official business shall be submitted in writing and routed via the chain of command to the Bureau Director, who shall forward the requests to the Chief or designee. The requests shall include the following information:

- Purpose of travel
- Name(s) of the person(s) to be contacted
- Specific investigative activity to be performed
- Length of the visit
- Investigation or file number, if applicable

If obtaining prior written approval from the Chief, the Bureau Director, and/or the parent agency head is not possible, verbal approval may be obtained from the Bureau Director, the head of the parent agency, or their respective designee. The date of verbal approval and the name of the

individual(s) approving each trip shall be documented in the relevant investigative file within five (5) business days of the traveling individual's return to the United States.

#### **427.4 NOTIFICATION TO THE LA CLEAR**

When any Department employee, including the agents assigned to the FPLEU, or task force member has received approval to travel to a foreign country, he/she shall notify the LA CLEAR of the date and purpose of the upcoming trip, the individual(s) and/or agency(ies) to be visited, the name(s) of any person(s) traveling with him/her, and the date and time the employee anticipates returning or going off duty.

The LA CLEAR will complete the required "Foreign Travel Notification" form (FTN) and electronically transmit the completed FTN to the Bureau Director or designee. The LA CLEAR will monitor each agent's progress and close the notification when the agent has reported.

#### **427.5 OVERDUE AND MISSING AGENTS**

An agent is considered "overdue" when he/she fails to contact the LA CLEAR at the time specified by the agent in his/her pre-travel notification. If that occurs, the LA CLEAR shall attempt to contact the agent via phone. If the LA CLEAR is unable to make contact with the agent, the LA CLEAR shall notify the FPLEU SAC or the regional office SAC. The SAC shall determine if the agent's status should be changed.

An "overdue" agent is determined to be "missing" when all known means of contacting him/her have been attempted with negative results or when the Bureau Director, Assistant Bureau Director or SAC orders a change of status.

- a. If the agent's status changes from "overdue" to "missing," the appropriate SAC or designee shall notify the bureau's chain of command.
  1. The FPLEU SAC or the regional office SAC shall make notification to the first available law enforcement international liaison unit, as well as the U.S. Marshal Service (USMS), Federal Bureau of Investigation (FBI), and the U.S. Embassy and Consulate of the country in question.
  2. If the agent is "missing" in the Republic of Mexico, utilizing the first available law enforcement liaison unit, USMS, and FBI, notify the 2nd Mexican Military Battalion Command, the Mexican Federal Attorney General's Office, and the Mexican Federal Preventive Police.
  3. The FPLEU SAC or the regional office SAC shall either personally make these notifications or defer notification to the LA CLEAR. It is recommended that international liaison agencies make notifications to foreign missions (embassy or consulate) and Mexican law enforcement. In order to assist the Incident Commander, the IOC will maintain a contact list of all U.S. law enforcement liaison agencies.

- b. All information involving the LA CLEAR, such as “change of status” or the initiation of “agency notifications,” shall be documented by the LA CLEAR via the FTN computerized document.

### **427.5.1 COMMAND POST**

The LA CLEAR shall monitor the situation and act as the primary resource center during the operation. A field command post shall be set up at the regional office, the San Ysidro Port of Entry through the Customs and Border Patrol (CBP) liaison, or any other viable location. The FPLEU SAC or agency designee shall coordinate with the government in question any and all searches in that government’s territory.

### **427.5.2 AGENCY ROLES AND RESPONSIBILITIES**

- a. The first contacted international liaison unit is notified so that they may make immediate notification to all U.S. law enforcement agencies with international liaison units in California. The first contacted international liaison unit shall also initiate informal contact with foreign law enforcement.
- b. The USMS is notified because of its vast resources and assets in foreign countries. The USMS will also begin formal contact with the foreign country law enforcement or military.
- c. The FBI is notified in order to implement classified assets to assist in the return of missing personnel. The FBI is also present with resources in most foreign countries.
- d. The U.S. Embassy is notified in order to formally request assistance from the foreign country in question through diplomatic channels.
- e. The U.S. Consulate is the local contact representing the U.S. Embassy in the field of jurisdiction/operations. They may also be the point of contact for the U.S. Embassy.
- f. CBP is notified primarily to make official notification to all of its ports of entry along the southwest border to be on alert for the missing agent(s).
- g. Military Command is notified in order to receive the resources of the military throughout the region.
- h. Federal Police are notified to activate their assets throughout the country.
- i. The United States Border Patrol is notified due to their responsibility along the border outside of the established ports of entry.

[REDACTED]

#### 427.6 MEXICAN AUTO INSURANCE

Division employees who travel to Mexico using State vehicles shall secure Mexican auto insurance. The DGS Office of Risk and Insurance Management (ORIM) can procure either annual or short-term Mexican auto insurance for State employees who are required to drive in Mexico. The FPLEU can assist with arranging for Mexican auto insurance when an employee gives notification of scheduled travel into Mexico.

## **428 Immigration Violations**

### **428.1 PURPOSE AND SCOPE**

The immigration status of individuals alone is generally not a matter for police action. It is incumbent upon all employees of this department to make a personal commitment to equal enforcement of the law and equal service to the public regardless of immigration status. Confidence in this commitment will increase the effectiveness of the Department in protecting and serving the entire community.

### **428.2 DEPARTMENT POLICY**

The U.S. Immigration and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions of Title 8, United States Code dealing with illegal entry. However, if an agent, during an unrelated law enforcement activity, detects, upon reasonable suspicion, that an individual is in violation of Title 8, U.S.C. Section 1326(a) that may be subject to the enhancement specified in Section 1326(b)(2) of that same federal statute, the agent may investigate, enforce, detain, or arrest a person for violation of that federal immigration law.

### **428.3 PROCEDURES FOR IMMIGRATION COMPLAINTS**

Persons wishing to report immigration violations can contact the local office of the U.S. Immigration and Customs Enforcement (ICE).

#### **428.3.1 BASIS FOR CONTACT**

The disposition of any contact (e.g., warning, citation, arrest), while discretionary in each case, should not be affected by such factors as race, age, gender, sexual orientation, gender identity, disability, national origin, citizenship and immigration status, religion or socioeconomic status, unless one of those factors is specifically identified in the law.

When making contact with an individual, an agent shall not inquire about a person's immigration status for immigration enforcement purposes. For that reason, agents should not generally be in possession of immigration status information. However, if agents happen to come into possession of a person's immigration status, agents are not prohibited from responding to requests by immigration authorities for a person's immigration status.

#### **428.3.2 SWEEPS**

The California Department of Justice does not conduct sweeps or other efforts to detain immigrants suspected of being present in the United States while lacking an authorized immigration status.

### **428.3.3 IMMIGRATION AUTHORITIES' REQUEST FOR ASSISTANCE**

If a specific request is made by ICE or any other federal agency for immigration enforcement purposes, this department may only provide support if the activity is permitted under Government Code § 7284.6.

Members of this department should not participate in such federal operations as part of any detention team for immigration enforcement purposes. Any detention by a member of this department should be based upon the reasonable belief that an individual has violated state criminal laws, violated non-immigration federal criminal laws, *i.e.* not in title 8 of the United States Code, or under the limited exception that the person is suspected of violating 8 U.S.C. § 1326(a), if this is detected during an unrelated law enforcement activity, and the person is subject to the enhancement specified in 8 U.S.C. § 1326(a)(2).

Agents may only transfer an individual to immigration authorities if provided with a judicial warrant or judicial probable cause determination for a violation of federal criminal immigration law, or the person is eligible for a transfer to immigration authorities under Government Code § 7282.5(a)(1)-(6).

Notwithstanding the above, agents are not restricted from working with any agency, including immigration authorities, on criminal law enforcement matters.

### **428.3.4 IDENTIFICATION**

Whenever any individual is reasonably suspected of a criminal violation (infraction, misdemeanor, or felony), the investigating agent should take reasonable steps to determine the person's identity through valid identification or other reliable sources.

### **428.3.5 ARREST**

If the agent intends to take enforcement action and the individual is unable to reasonably establish his/her true identity, the agent may take the person into custody on the suspected criminal violation (see Vehicle Code § 40302(a), and Penal Code § 836, if pertinent to the circumstances). A field supervisor shall approve all such arrests.

### **428.3.6 BOOKING**

If the agent is unable to reasonably establish an arrestee's identity, the individual may, upon approval of a supervisor, be booked into jail for the suspected criminal violation and held for arraignment.

## **428.4 SHARING OF INFORMATION WITH IMMIGRATION AUTHORITIES**

The California Department of Justice is concerned for the safety of all residents of the State and thus detection of criminal behavior is of primary interest in dealing with any person. The decision to arrest shall be based upon those factors which establish probable cause of the criminal offenses within the jurisdiction of the department and not on arbitrary aspects. Race, ethnicity, age, gender, sexual orientation, gender identity, national origin, citizenship and immigration status, disability, religion, and socioeconomic status alone are of no bearing on the decision to arrest.

All individuals, regardless of their immigration status, must feel secure that contacting law enforcement will not make them vulnerable to immigration authorities. Agents should not ask any person about his or her immigration status for immigration enforcement purposes, including crime victims and witnesses.

Agents are not required to notify ICE when booking arrestees at a county jail.

Nothing in this policy is intended to restrict agents from exchanging or maintaining information regarding a person's citizenship or immigration status with any other federal, state or local governmental entity (Title 8 U.S.C. § 1373). Agents also may respond to requests from immigration authorities for information about a person's criminal history that is available in the California Law Enforcement Telecommunications System (CLETS). Agents may also exchange confidential information with other law enforcement agencies for purposes of task force investigations, so long as the conditions in Government Code § 7284.6(b)(3) are met. Agents may not otherwise provide personal information, as defined in Civil Code § 1798.3, about a person for immigration enforcement purposes unless that information is available to the public.

### **428.4.1 U-VISA NONIMMIGRANT STATUS**

Under certain circumstances, federal law allows for the issuance of a temporary, non-immigrant status to allow victims and witnesses of certain qualifying crimes to remain in the United States (8 U.S.C. § 1101(a)(15)(U and T). A declaration/certification for a U-Visa or T-Visa from U.S. Citizenship and Immigration Services must be completed on the appropriate U.S. DHS Form supplements (I-918 or I-914) by law enforcement and must include information on how the individual can assist in a criminal investigation or prosecution in order for a U-Visa or T-Visa to be issued.

Any request for assistance in applying for U-Visa or T-Visa status should be forwarded in a timely fashion to the BI SAS assigned to supervise the handling of any related case. The BI SAS should do the following:

- a. Consult with the assigned agent to determine the current status of any related case and whether a supplemental report is warranted.

- b. Review the instructions for completing the declaration/certification if necessary. Instructions for completing Forms I-918/I-914 can be found on the U.S. DHS website.
- c. Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the declaration/certification has not already been completed and whether a declaration/certification is warranted.
- d. Address the request and complete the declaration/certification, if appropriate, in a timely manner.
- e. Ensure that any decision to complete or not complete the form is documented in the case file and forwarded to the appropriate prosecutor, include a copy of any completed certification in the case file.

In accordance with Penal Code § 679.10, an agent must certify a requested U-Visa application if enumerated conditions are met.

#### **428.4.2 HUMAN TRAFFICKING T-VISA**

Agents and their supervisors who are assigned to investigate a case of human trafficking shall complete the above process for a T-Visa application. Agents and supervisors should submit the letter needed for a T-Visa application within 15 business days of the first encounter with the victim, whether or not it is requested by the victim (Penal Code § 236.5). In accordance with Penal Code § 679.11, an agent must certify a requested T-Visa application if enumerated conditions are met.

## **429 Undercover Contact with Law Enforcement**

### **429.1 PURPOSE AND SCOPE**

Because undercover agents are not readily identifiable as law enforcement officers, unplanned contact with uniformed personnel carries the potential for confrontation. The primary responsibility for avoiding or defusing this risk lies with the undercover agent(s).

### **429.2 PROCEDURE**

The actions and behavior of the undercover agent when contacted by a uniformed officer are critically important. The following guidelines are intended to assist in avoiding or alleviating the potential danger associated with such contacts. The undercover agent should:

- a. Carry his/her firearm concealed rather than partially or completely exposed to view.
- b. Avoid any sudden movement which could be interpreted as suspicious or threatening, and keep his/her hands in sight and open.
- c. Verbally identify himself/herself and tell the officer where his/her credentials and weapon(s) are located.
- d. Follow the instructions of the uniformed officer explicitly and without hesitation.
- e. Upon request, provide the name and phone number of his/her supervisor or another agency member who may be contacted for verification.

## **434 Aircraft Accidents**

### **434.1 PURPOSE AND SCOPE**

This policy describes situations involving aircraft accidents including responsibilities of personnel, making proper notification, and documentation.

### **434.2 RESPONSIBILITIES**

In the event of an aircraft crash the employee is responsible for assisting the local law enforcement agency having jurisdiction over the crash site, if assistance is requested.

#### **434.2.2 NATIONAL TRANSPORTATION SAFETY BOARD**

The National Transportation Safety Board (NTSB) has the primary responsibility for investigating accidents involving civil aircraft. In the case of a military aircraft incident, the appropriate branch of the military will be involved in the investigation. The NTSB is concerned with several aspects of a crash as described in this section.

Every effort should be made to preserve the scene to the extent possible in the condition in which it was found until such time as NTSB or other authorized personnel arrive to take charge of the scene.

Military personnel will respond to take charge of any military aircraft involved, whether or not injuries or deaths have occurred.

If the accident did not result in a death or injury and the NTSB elects not to respond, the pilot or owner may assume control of the aircraft.

Removal of the wreckage shall be done under the guidance of the NTSB or military authorities or, if the NTSB is not responding for an on-site investigation, at the discretion of the pilot or the owner.

### **434.3 DOCUMENTATION**

Any aircraft accident (crash) of a DLE aircraft, regardless of whether injuries or deaths occur, shall be documented in an investigative report.

## **438 Obtaining Air Support**

### **438.1 PURPOSE AND SCOPE**

The use of aircraft can be invaluable in certain situations. This policy specifies potential situations where the use of aircraft may be requested and the responsibilities for making a request.

### **438.2 REQUEST FOR AIRCRAFT ASSISTANCE**

If a supervisor or agent in charge of an incident/investigation determines that the use of aircraft would be beneficial, a request to obtain such assistance may be made.

- a. All requests for DLE aviation support require the prior approval of the Surveillance Operations Unit SAS or designee and shall be coordinated through the Surveillance Operations Unit.
  1. Requests for routine surveillance services during normal business hours shall be coordinated with the Aviation Duty Officer (ADO).
  2. Requests for transportation missions require the prior approval of the Chief or Deputy or Assistant Chief. Requests must be received by the Office of the Chief at least 24 hours prior to the requested flight time.
  3. For after-hours emergency requests, contact the DOJ Command Center at (916) 227-3244 and request a return call from the SAS of the Surveillance Operations Unit.
- b. Complete an Aircraft Transportation Request Worksheet (DLE 208) to request aviation support.
  1. Contact the Surveillance Operations Unit when completing the form to determine which aircraft would best suit the requested mission and the cost to operate that aircraft.
  2. Submit the completed DLE 208 to the Chief's Office at least 24 hours prior to the requested flight time.
- c. Once the Surveillance Operations Unit receives the approved DLE 208 from the Chief's Office, the ADO will obtain the required approval from the Surveillance Operations Unit SAS or designee. Once approved, the ADO will assign a mission number to confirm that the mission is scheduled and for data tracking.
- d. If a mission is changed or canceled, the requester shall notify the ADO as soon as possible to allow the ADO to reschedule the aircraft/mission.

## **438.2.1 REQUEST FOR ASSISTANCE FROM ANOTHER AGENCY**

If no suitable DLE aircraft is available, assistance may be requested from another agency. After consideration and approval of the request for an aircraft, the field supervisor or his/her designee will call the closest agency having aircraft support available. The supervisor will apprise that agency of the specific details of the incident prompting the request. Upon request, the Surveillance Operations Unit can provide the supervisor with contact information for appropriate agencies.

## **438.2.2 CIRCUMSTANCES UNDER WHICH AID MAY BE REQUESTED**

DLE aircraft may be requested under any of the following conditions:

- a. Search and rescue operations.
- b. Whenever the safety of DLE personnel is in jeopardy and the presence of the aircraft may reduce such hazard.
- c. When the use of the aircraft will aid in the capture of a suspected fleeing felon whose continued freedom represents an ongoing threat to the community.
- d. When the aircraft is needed to assist in disaster relief efforts.
- e. When the aircraft is needed to conduct reconnaissance/surveillance.
- f. Vehicle pursuits.

While it is recognized that the availability of aircraft support will generally provide valuable assistance to ground personnel, the presence of the aircraft will rarely replace the need for agents on the ground.

## **438.2.3 OPERATIONAL OR SCHEDULING CONFLICTS**

The Surveillance Operations Unit does not prioritize aircraft requests. Aircraft and crews are assigned on a first-come, first-served basis until all available resources are utilized. Once all resources are exhausted, the Surveillance Operations Unit shall provide guidance as follows:

- a. In case of a scheduling conflict, the SAS requesting aircraft support shall be directed to the SAS already assigned aircraft support. The SASs will determine which mission has the highest priority for aircraft support. If the scheduling conflict cannot be resolved between the SASs, the issue shall be referred up the chain of command until resolved.
- b. Priority should normally be assigned as follows:
  1. Operations with officer safety concerns.

2. Undercover operations utilizing an undercover officer.
  3. Arrest/search warrant operations.
  4. Multiple suspect operations.
  5. Undercover operations utilizing a confidential informant.
  6. Surveillance.
  7. Photo/sensor operations.
  8. Investigation/enforcement transport.
  9. Administrative transport.
- c. The Surveillance Operations Unit will not divert an aircraft from its assigned mission unless the SAC or SAS originally assigned the aircraft support contacts the ADO and releases the aircraft.
- d. The Chief or Deputy or Assistant Chief shall have the final authority to resolve all scheduling and utilization conflicts.

### **438.3 AUTHORIZATION TO PILOT AIRCRAFT**

Surveillance Operations Unit pilots shall pilot DOJ aircraft on DOJ operations. Bureau personnel who are not assigned to the Surveillance Operations Unit are prohibited from piloting aircraft on bureau operations without the prior approval of the Chief or his/her designee.

This does not preclude personnel not assigned to the Surveillance Operations Unit from piloting non-DOJ aircraft while traveling on state business as authorized by the SAM § 0700. Personnel piloting rental, privately owned, other agency, or leased aircraft while traveling on state business are responsible for ensuring that the aircraft is covered on the owner's insurance policy for hull and liability protection, and for all SAM § 0746 requirements.

### **438.4 AIR CREW RESPONSIBILITIES AND AUTHORITY**

The Pilot in Command (PIC) designated by the Surveillance Operations Unit SAS is responsible for the technical and safe operation of the aircraft in the accomplishment of the mission. The PIC is the final authority for all flight-related decisions.

A Second in Command (SIC) shall be designated by the Surveillance Operations Unit SAS when more than one pilot is assigned to the mission. The SIC is responsible for assisting the PIC with operating, securing, and servicing of the aircraft. The SIC is the second highest authority for all flight-related decisions.

Aerial Observers (AO) are usually assigned by the bureau that initiated the mission. The AO's primary duty is visual surveillance. The AO is responsible for providing the PIC with an operational briefing. The AO is also responsible for the proper use and care of equipment and materials provided for each mission. AOs may, at the request of the PIC, assist with pre-flighting, servicing, and securing the aircraft and mission equipment. Occasionally, a Surveillance Operations Unit AO is assigned to a mission. The Surveillance Operations Unit AO is responsible for passenger safety, loading and securing equipment, and for the technical operation and care of surveillance equipment. The Surveillance Operations Unit AO provides instruction to all passengers on behalf of the PIC and SIC. The passengers shall comply with all instructions when they are in or around the aircraft.

#### **438.4.1 FLIGHT AND DUTY LIMITATIONS**

Surveillance Operations Unit pilots shall adhere to the following flight duty limitations:

- a. Single-Pilot Missions:
  1. Pilots are not authorized to operate an aircraft for more than eight hours per day without the prior approval of the Surveillance Operations Unit SAS or designee.
  2. A pilot's duty time shall not exceed 14 hours per day.
  3. A pilot's flight and duty limitations may be further restricted based on previous flight and duty workload.
  4. Pilots shall have a minimum 10 hours off-duty time scheduled between missions. Pilots authorized to exceed eight flight hours shall have a minimum of 12 hours off-duty time scheduled between missions.
- b. Two-Pilot Missions:
  1. Two pilot operations are limited to 10 hours of flight and 16 hours of duty per day. These limits shall not be waived under any circumstances.

#### **438.4.2 FLIGHT DUTY UNIFORM**

Pilots are issued uniforms for use when performing certain transport missions. The PIC is responsible for ensuring all crew members are appropriately attired for the type of mission being flown.

- a. Tactical, Training, Maintenance, and Ferry Missions: A specific uniform is not provided or specified. Crew members are expected to present a neat casual appearance. The goal is to blend with other pilots flying small, Cessna 182 type, aircraft at local airports. The PIC shall determine the appropriate attire for each mission.
- b. Transport Mission: The uniform shall be a black or tan polo shirt with khaki pants.

## **440 Field Interviews & Photographing of Field Detainees**

### **440.1 PURPOSE AND SCOPE**

Refer to the *California Peace Officers Legal Sourcebook* (Policy Manual § 106.5.3) for guidelines for conducting field interviews (FI) and pat-down searches, and the taking and retention of photographs of persons detained in the field but not arrested.

## 442 Criminal Street Gangs

### 442.1 PURPOSE AND SCOPE

It is the policy of this department to establish a procedure for identifying criminal street gangs, participants of criminal street gangs, and patterns of criminal activity as outlined in Penal Code § 186.20 through Penal Code § 186.33 of the "Street Terrorism Enforcement and Prevention Act."

The intent of this policy is to provide for the collection and management of criminal street gang information so as to enhance officer safety and the criminal prosecution of criminal street gang participants.

### 442.2 DEFINITIONS

**Pattern of Criminal Gang Activity** - The commission, attempted commission, conspiracy to commit, sustained juvenile petition for, or conviction of two or more of any offenses as described in Penal Code § 186.22(e), as long as at least two of the offenses are committed on separate occasions within three years of each other or by two or more individuals on the same occasion.

**Criminal Street Gang** - Any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the criminal acts enumerated in paragraphs 1 through 25 or paragraphs 31 through 33 of Penal Code § 186.22(e), and which has a common name or common identifying sign or symbol, and whose members individually or collectively engage or have engaged in a pattern of criminal street gang activity.

**Gang Related Crime** - Any crime, which is committed for the benefit of, at the direction of, or in association with, a criminal street gang with the intent to promote, further or assist any criminal street gang.

### 442.3 IDENTIFICATION OF CRIMINAL STREET GANGS / PARTICIPANTS

Based upon their assignment (i.e. a regional gang task force, the BI Special Operations Unit), employees shall be authorized to collect information on individuals who are suspected of participating in a criminal street gang and groups that are suspected of being criminal street gangs.

- a. A group of three or more individuals shall be designated a criminal street gang when:
  1. They have a common name or common identifying sign or symbol.
  2. There is evidence, substantiated by crime and informational reports, that a primary activity of the group is the commission of one or more criminal acts enumerated in Policy Manual § 442.2(a).

3. One or more members individually or collectively have engaged in a pattern of criminal gang activity as defined in Policy Manual § 442.2(a).
  4. A designated representative of the District Attorney's Office reviews the available evidence and concurs with a Department finding that the group meets the criteria for being a criminal street gang.
- b. An individual shall be designated as a participant in a criminal street gang and included in a gang file, when one or more of the following elements have been verified by a Gang/Information Unit member and a reasonable basis for believing such affiliation has been established and approved by a supervisor:
1. An individual admits membership in a criminal street gang.
  2. A reliable informant or known gang member identifies an individual as a participant in a criminal street gang.
  3. An informant of previously untested reliability identifies an individual as a participant in a criminal street gang when that identification is corroborated by independent information.
  4. An individual resides in or frequents a particular criminal street gang's area, and affects their style of dress, color of dress, use of jewelry, tattoos, monikers, or any other identifiable mannerism associated to that particular criminal street gang, and where the agent documents reasonable suspicion that the individual is involved in criminal gang activity or enterprise.
  5. A person has been arrested in the company of identified criminal street gang members for offenses that are consistent with criminal street gang activity or criminal street gang related crimes.
  6. An individual is identified as a gang member in a criminal street gang document or the individual is depicted in a criminal street gang member's photograph(s) in such a manner as to clearly indicate membership in a criminal street gang.
  7. An individual otherwise meets the criteria of a criminal street gang participant under the guidelines of a department approved gang intelligence database and/or 28 C.F.R. 23.20.
- c. An individual may be designated as a gang affiliate only when the individual is known to affiliate with active criminal gang members and an agent has established that there is reasonable suspicion that the individual is involved in criminal activity. An agent's belief must be premised upon reasoning and logic coupled with sound judgment based upon law enforcement experience, rather than a mere hunch or whim.

## **442.4 CRIMINAL STREET GANG INVESTIGATION FILE**

A file of criminal street gang participants shall include:

- a. Names, aliases, monikers, tattoos, addresses, and other relevant identifying information;
- b. Gang name;
- c. Justification used to identify an individual as a criminal street gang participant;
- d. Vehicle(s) known to be used;
- e. Cross-references to other identified gangs or gang members.

### **442.4.1 REVIEW AND PURGING OF GANG PARTICIPANT FILE**

Temporary files shall not be retained longer than one year. At the end of one year, temporary files must be purged if the information does not qualify for entry into CalGang®.

The SAS/TFC shall periodically review temporary files to verify that the information was properly obtained and meets the criteria for retention. Validation and purging of temporary criminal street gang files is the responsibility of the SAS/TFC.

### **442.4.2 CRIMINAL GANG INTELLIGENCE DATABASE**

The Chief has approved the CalGang® criminal gang intelligence database for use by members of the Division. The CalGang® database is compliant with 28 C.F.R. § 23.20 regulating criminal intelligence systems. Employees must obtain the requisite training before accessing CalGang®.

Authorized SASs, TFCs, and agents shall ensure that individuals subject to investigation, exhibiting gang membership criteria developed by CalGang®, are entered into the CalGang® system in order to enhance statewide criminal intelligence. A related location or vehicle shall also be entered into the system.

It is the responsibility of the SAS/TFC to retain reports and FIs in compliance with the procedures of the Department-approved criminal gang intelligence database and 28 C.F.R. § 23.20. These reports or FIs may not be purged without the approval of the SAS/TFC.

## **442.5 FIELD CONTACTS**

Agents who contact individuals who are, or may be, participants in criminal street gang activity should document the reasonable suspicion underlying the contact and the exact circumstances leading to the suspicion that the individual is a criminal street gang participant (e.g., subject states he or she is a member of XYZ gang; XYZ tattoo on right hand near thumb; wearing ball cap with gang name printed in blue or red ink) in a report.

## **442.6 NOTIFICATION TO PARENT OR GUARDIAN**

When an inquiry is made by a parent or guardian as to whether a juvenile's name is in the criminal street gang investigation file, such information shall be provided by the unit supervisor, unless there is good cause to believe that the release of such information may jeopardize an ongoing criminal investigation.

Employees must observe strict compliance with the rules of CalGang® regarding release of information from that database.

## **442.7 DISSEMINATIONS OF THE FILE INFORMATION**

Information from the temporary criminal street gang participant files may only be furnished to Department personnel and other public law enforcement agencies on a need-to-know basis. This means information that may be of use in the prevention of gang-related criminal activity or in the investigation of gang-related crimes shall be released to members of this department and other law enforcement agencies.

Information from any department approved database, including CalGang®, must only be released in compliance with the rules for that particular database.

## **442.8 REPORTING CRITERIA AND ROUTING**

Incidents that appear to be criminal street gang related shall be documented in an investigation report and shall at minimum include the following:

- a. A description of any document, statements, actions, dress or other information that would tend to support the agent's belief that the incident may be related to the activities of a criminal street gang.
- b. Whether any photographs were taken and a brief description of what they depict.
- c. What physical evidence, if any, was observed, collected or booked.
- d. A list of individuals or agencies to whom a copy of the report was given.

Any photographs taken or evidence collected shall be booked in accordance with current evidence booking procedures.

## **444 Special Agents in Charge**

### **444.1 PURPOSE AND SCOPE**

Each regional office must be directed by supervisors who are capable of making decisions and communicating in a manner consistent with departmental policies, procedures, practices, functions and objectives. To accomplish this goal, a SAC heads each regional office.

### **444.2 DESIGNATION AS ACTING SAC**

When a SAC is unavailable for duty as SAC, in most instances the senior qualified Special Agent Supervisor shall be designated as acting SAC. This policy does not preclude designating a less senior Special Agent Supervisor as an acting SAC when operational needs require or training permits.

## **452 Medical Marijuana**

### **452.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide members of this department with guidelines for handling and distinguishing between claims of medical marijuana use under California's Compassionate Use Act (Health & Safety Code § 11362.5) and criminal narcotics violations.

### **452.2 ENFORCEMENT**

Although federal law does not currently permit possession of marijuana for medical use, California has created a limited defense (i.e. no penalty) for certain qualified individuals possessing small quantities of marijuana for medical use under strict conditions.

- a. Notwithstanding California Medical Marijuana laws:
  1. California does not provide any exception for individuals driving under the influence of marijuana. All such cases should be handled with appropriate enforcement action (e.g., Vehicle Code § 23152, et seq.).
  2. Medical marijuana may not be smoked outside of a residence within 1000 feet of a school, recreation center, youth center or in a vehicle or boat (Health & Safety Code § 11362.79).
  3. No probationer or parolee may possess medical marijuana unless such possession is authorized in writing by court order or parole conditions (Health & Safety Code § 11362.795).
- b. Possession, cultivation and sales of marijuana in quantities beyond that which might reasonably be construed as for personal use should be handled as criminal cases with appropriate enforcement action taken pursuant to Health & Safety Code §§ 11357, 11358 and 11359.
  1. The amount of marijuana possessed must be consistent with the medical needs of the qualified patient or person with valid ID card.
  2. The quantity and form of marijuana must also be reasonably related to the patient's current medical needs.
    - a. Absent a verifiable doctor's recommendation to exceed allotted quantities, a qualified patient or primary caregiver may possess no more than eight ounces of dried marijuana per qualified patient, and;
    - b. Maintain no more than six mature, or twelve immature marijuana plants per qualified patient (Health & Safety Code § 11362.77(a)(b)).

- c. In any case involving the possession or cultivation of marijuana, the agent should inquire whether the individual is claiming that the marijuana is for medicinal purposes.
  - 1. If no such claim is made, the agent should proceed with normal enforcement action.
  - 2. If a claim of medicinal use is made, the agent should proceed as outlined below.

## **452.3 MEDICINAL USE CLAIMS**

In order to qualify for a medicinal marijuana defense, any individual making such a claim must affirmatively establish the following information. If the individual cannot or will not provide all of the required information, the agent should note such fact in any related report and proceed with appropriate enforcement action.

### **452.3.1 PATIENTS**

- a. An individual may establish his/her status as a qualified patient by presenting a current and valid state issued identification card issued by the Department of Health (Health & Safety Code § 11362.735). Such identification cards shall contain the following information:
  - 1. A unique serial number.
  - 2. An expiration date.
  - 3. The name and telephone number of the county health department approving the application.
  - 4. A 24-hour toll-free number for law enforcement to verify the validity of the card (Verification can be checked at [www.calmmmp.ca.gov](http://www.calmmmp.ca.gov)).
  - 5. A photograph of the cardholder.

No agent shall refuse to accept a properly issued identification card unless the agent has reasonable cause to believe that the information contained in the card is false or that the card is being used fraudulently (Health & Safety Code § 11362.78).

- b. If the individual does not possess a valid state issued identification card, the individual claiming status as a qualified patient must minimally provide the following information:
  - 1. Satisfactory identification establishing current residency in California.
  - 2. A current and valid medical marijuana ID card from a local governmental agency (e.g., county) or a current and verifiable, written recommendation for marijuana from a California licensed physician.

3. In the absence of a valid identification card, the agent should also obtain a written waiver from the involved individual authorizing the release of all related medical records.

### **452.3.2 PRIMARY CAREGIVERS**

Primary caregivers are subject to the following requirements (Health & Safety Code 11362.765):

- a. A primary caregiver is not authorized to use, sell, or possess marijuana for sale.
- b. A primary caregiver must provide sufficient proof that he/she is responsible for the patient's housing, health and/or safety.
- c. A primary caregiver must provide sufficient proof of personal knowledge of the patient's medical needs and the details of the attending physician's recommendation.
- d. Upon proof that a qualified primary caregiver is caring for more than one qualified patient, he/she may aggregate possession and cultivation limits. For example, a primary caregiver caring for three qualified patients may possess 24 ounces (eight ounces per patient) of marijuana (Health & Safety Code § 11362.7(d)(2)).
- e. While qualified patients and primary caregivers may be permitted to collectively or cooperatively associate to cultivate medical marijuana, such individuals must strictly adhere to all non-profit and local business requirements (Health & Safety Code § 11362.775).

### **452.3.3 CLAIM REQUIREMENTS MET**

Once the handling agent is satisfied that the individual making a medicinal marijuana use claim meets the above requirements, the agent should proceed as follows:

- a. A small sample of the involved marijuana should be seized and booked into evidence.
- b. Any allowable amount of marijuana left in possession of a qualified individual for the limited purpose of medicinal use should be described and noted in the related report.
- c. If the handling agent has already taken the individual into custody (vs. detention only) prior to establishing qualification for a potential medicinal use defense and there are no other criminal charges pending or being investigated, the individual should be released pursuant to Penal Code § 849(b).
- d. If the individual remains in custody on any charge(s), the individual will not be permitted to use marijuana while being detained or held in jail or other law enforcement facility (Health & Safety Code § 11362.785(c)).

- e. The handling agent shall complete a timely report which will be submitted to the District Attorney with all of the aforementioned documentation for a determination of whether the medicinal marijuana defense will apply.

#### **452.3.4 RETURN OF MARIJUANA**

Regardless of the prosecution status or disposition of any related criminal case, this department will not be responsible for the return of any marijuana seized as evidence except as may be required by a valid court order (Health and Safety Code § 11473.5 and 21 U.S.C. § 885(d)).

## **458 Foot Pursuit Policy**

### **458.1 PURPOSE AND SCOPE**

Foot pursuits are inherently dangerous and require common sense, sound tactics and heightened officer safety awareness. This policy sets forth guidelines to assist agents in making the decision to initiate or continue the pursuit of suspects on foot by balancing the objective of apprehending the suspect with the risk of potential injury to the agent, the public or the suspect.

#### **458.1.1 POLICY**

It is the policy of this department when deciding to initiate or continue a foot pursuit that agents must continuously balance the objective of apprehending the suspect with the risk and potential for injury to department personnel, the public or the suspect.

Agents are expected to act reasonably, based on the totality of the circumstances. Absent exigent circumstances, the safety of department personnel and the public should be the primary consideration when determining whether a foot pursuit should be initiated or continued. Agents must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department personnel.

### **458.2 DECISION TO PURSUE**

Agents may be justified in initiating a foot pursuit of any individual the agent reasonably believes is about to engage in, is engaging in or has engaged in criminal activity. The decision to initiate or continue such a foot pursuit, however, must be continuously re-evaluated in light of the circumstances presented at the time.

Mere flight by a person who is not suspected of criminal activity shall not serve as the sole justification for engaging in an extended foot pursuit without the development of reasonable suspicion regarding the individual's involvement in criminal activity.

Deciding to initiate or continue a foot pursuit is a decision that an agent must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits potentially place department personnel and the public at significant risk. Therefore, no agent or supervisor shall be criticized or disciplined for deciding not to engage in a foot pursuit because of the perceived risk involved.

If circumstances permit, surveillance and containment are generally the safest tactics for apprehending fleeing persons. In deciding whether to initiate or continue a foot pursuit, an agent should continuously consider reasonable alternatives to pursuit based upon the circumstances and resources available, such as the following:

- a. Containment of the area

- b. Canine search
- c. Saturation of the area with personnel
- d. Aerial support
- e. The availability of other law enforcement agencies to assist
- 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 pursuit

### **458.3 GUIDELINES FOR FOOT PURSUIT**

Unless the agent reasonably believes that exigent circumstances exist (e.g. a serious threat to the safety of personnel or members of the public), agents should consider alternatives to engaging in or continuing a foot pursuit under the following conditions:

- a. When directed by a supervisor to terminate the foot pursuit. Such an order shall be considered mandatory.
- b. When the agent is acting alone.
- c. When two or more agents 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 agent keep the suspect in sight from a safe distance and coordinate the containment effort.
- d. The agent is unsure of his/her location and direction of travel.
- e. When pursuing multiple suspects and the pursuing agents do not reasonably believe that they would be able to control the suspect should a confrontation occur.
- f. When the physical condition of the agents renders them incapable of controlling the suspect if apprehended.
- g. When the agent loses radio contact with backup agents.
- h. When the suspect enters a building, structure, confined space or a wooded or otherwise isolated area and there are insufficient agents to provide backup and containment. The primary agent should consider discontinuing the pursuit and coordinating containment pending the arrival of sufficient agents/allied agency personnel.
- i. The agent becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to agents or the public.

- j. The agent reasonably believes that the danger to the pursuing agents or public outweighs the objective of immediate apprehension.
- k. The agent loses possession of his/her firearm or other essential equipment.
- l. The agent or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- m. The suspect's location is no longer definitely known.
- n. The identity of the suspect is established or other information exists that will allow for the suspect's apprehension at a later time, and it reasonably appears that there is no immediate threat to department personnel or the public if the suspect is not immediately apprehended.
- o. The agent's ability to safely continue the pursuit is impaired by inclement weather, darkness or other conditions.

## **458.4 RESPONSIBILITIES IN FOOT PURSUITS**

### **458.4.1 INITIATING AGENT RESPONSIBILITIES**

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

Early communication of available information from the involved agents is essential so that adequate resources can be coordinated and deployed to bring a foot pursuit to a safe conclusion. Agents initiating a foot pursuit should broadcast the following information as soon as it becomes practicable and available:

- a. Unit identifier.
- b. Location and direction of travel.
- c. Reason for the foot pursuit.
- d. Number of suspects and description.
- e. Whether the suspect is known or believed to be armed.

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

Absent extenuating circumstances, any agent unable to promptly and effectively broadcast this information should terminate the 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 agent will notify the appropriate local law enforcement agency having jurisdiction 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.

#### **458.4.2 ASSISTING AGENT RESPONSIBILITIES**

Whenever any agent announces that he/she is engaged in a foot pursuit, all other agents should minimize nonessential radio traffic to permit the involved agents maximum access to the radio frequency.

Any agent who is in a position to intercept a fleeing suspect or who can assist the primary agent with the apprehension of the suspect, shall act reasonably and in accordance with department policy, based upon available information and his/her own observations.

#### **458.4.3 SUPERVISOR RESPONSIBILITY**

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 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 agents 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-pursuit activity.

#### **458.4.4 BASE STATION RESPONSIBILITIES**

Upon being notified or becoming aware that a foot pursuit is in progress, the base station operator shall, as soon as practicable, notify the field supervisor and provide available information. The base station operator is also responsible for the following:

- a. Clear the radio channel of nonemergency traffic.
- b. Repeat the transmissions of the pursuing agent as needed.
- c. Relay all pertinent information to responding personnel.

- d. Contact additional resources as directed by a supervisor.
- e. Coordinate response of additional resources to assist with the foot pursuit.

## **458.5 REPORTING**

The initiating agent shall complete the appropriate crime/arrest reports documenting, at minimum, the following:

- a. The reason for initiating the foot pursuit.
- b. The identity of involved personnel.
- c. The course and approximate distance of the pursuit.
- d. 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 Department Use of Force Policy.
- e. Any injuries or property damage.

In the event that the agent is unable to comply with this reporting requirement, the responsibility to report shall rest with any agents who witnessed the foot pursuit.

Assisting agents taking an active role in the apprehension of the suspect shall complete supplemental reports as necessary or as directed.

In any case in which a suspect is not apprehended and there is insufficient information to warrant further investigation, a supervisor may authorize that the initiating agent need not complete a formal report.

## **459 Statements and Admissions of Suspects**

### **459.1 PURPOSE & SCOPE**

It is the policy of this division that its agents attempt to obtain statements and admissions from all suspects.

#### **459.1.1 PROCEDURE**

Agents should attempt to obtain statements and admissions from all suspects. Whenever possible, the statements or admissions should be recorded. If the agent is unable to record the statements, a witness agent or officer should be present during the interview. Agents, including task force agents, shall give the Miranda warning to all suspects in compliance with case law. To ensure all suspects are given a complete and accurate Miranda warning, agents should, if possible, read the warning to the suspects from a "Miranda Warning Card."

Spontaneous statements made by suspects outside of Miranda shall be documented in the investigation report or asset forfeiture report.

## **463 Mandatory Case Event Deconfliction Inquiries and Submissions**

### **463.1 PURPOSE & SCOPE**

Supervisors, TFCs and primary case agents are responsible for ensuring that deconfliction inquiries are made on all subjects (i.e., addresses, vehicles, etc.) of investigations for which they are responsible and all informants utilized during those investigations. They shall also make intelligence database inquiries on all suspects identified during investigations.

### **463.2 PROCEDURE**

Deconfliction inquiries will be made immediately upon identification. Where possible, the posting of operational events into the deconfliction system should be made at least two hours in advance of the operation.

Regional offices and DLE task forces within the Los Angeles, Orange, Riverside and San Bernardino Counties and those that are assigned to, or receive funding from, the Central Valley High Intensity Drug Trafficking Area (CV-HIDTA) region or the Northern California High Intensity Drug Trafficking Area (NC-HIDTA) region shall use the Los Angeles Regional Criminal Intelligence Clearinghouse (LA CLEAR) Intelligence and Deconfliction Watch Center ("War Room") for all case and event intelligence deconfliction.

Regional offices and DLE task forces (and their task force members) within San Diego and Imperial Counties shall use the San Diego Law Enforcement Coordination Center (SD-LECC) Intelligence and Deconfliction Watch Center for all case and event intelligence deconfliction.

Absent any direction to the contrary, either due to funding source issues or local agreements, etc., all regional offices and DLE task forces (and their task force members) within all other counties may call either the Western States Information Network (WSIN) Intelligence and Deconfliction Watch Center or the LA CLEAR War Room for case and event intelligence deconfliction. Under this circumstance, it is recommended that staff utilize the Watch Center closest to their assigned regional area of responsibility. Because the California State Intelligence Index (CSII) used by DLE and LA CLEAR and the WSIN RISSIntel databases are seamlessly connected, all regional offices and DLE task forces with remote access capabilities may make deconfliction inquiries and/or submissions into RISSIntel and/or RISSafe.

All regional offices, and all DLE task forces that utilize CIMS, are required to store appropriate investigative information on the CSII through CIMS. To ensure that proper linkages are created, the storage of information through CIMS into CSII shall be done even if the original case and event intelligence deconfliction was accomplished through the WSIN Intelligence and Deconfliction Watch Center or through RISSIntel remote access.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



## **469 Threats Against Employees**

### **469.1 PURPOSE & SCOPE**

The purpose of this policy is to provide guidance to employees and supervisors in the event a job-related threat of physical harm is made against an employee of this division or an employee's immediate family.

### **469.2 POLICY**

Any employee of this division who receives information of a job-related threat of physical harm against himself/herself, his/her immediate family members, any other employee, or any other employee's immediate family shall, without delay, report the information to his/her immediate supervisor.

- a. The supervisor shall obtain as much information from the reporting employee as possible, including, if known, the following details:
  1. The name(s) of the threatened individual(s).
  2. The bureau assignment of the threatened or related employee.
  3. The source of the information concerning the threat.
  4. The nature and immediacy of the threat.
  5. The identity of the person(s) making the threat.
  6. The reason for the threat.
  7. When, where, how and to whom the threat was made.
  8. Any witness(s) to the threat.
  9. The reason the threat is believed to be job-related.
- b. The supervisor shall immediately contact the threatened/related employee's regional manager and verbally report the information received. Additionally, the supervisor will direct the reporting employee to immediately prepare a memorandum to the regional manager detailing the information provided to the supervisor and the date and time it was reported.
- c. The regional manager will assess the nature of the threat and take the necessary steps to secure the safety of the employee and/or the employee's immediate family.

- d. After taking the necessary steps to ensure the safety of the employee and/or the employee's immediate family, the regional manager will verbally report to the Bureau Director the known details of the threat, the regional manager's assessment of the threat, and the steps he/she has taken to ensure the safety of the employee and/or the employee's immediate family.
- e. The regional manager will also, when appropriate, notify local law enforcement officials of the threat and provide the local officials all known information concerning the threat to aid them in their role in protecting the safety of the employee and/or the employee's family in the investigation of the threat and, when appropriate, the apprehension of the person(s) making the threat.
- f. The regional manager will, within 24 hours of being notified of the threat, send a memorandum to bureau headquarters detailing the information received concerning the threat, the regional manager's assessment of the threat, the steps taken to protect the immediate safety of the employee and/or the employee's family, and the steps being taken to resolve or remove the threat.
- g. After the immediate safety of the employee and/or the employee's family has been ensured or it is determined that the threat is not job-related, the continuing safety of the employee and/or the employee's family shall be the responsibility of the appropriate local agency. If, however, the threat is job-related and the Bureau Director determines there will be an ongoing need to provide protection to the employee and/or the employee's family, the regional manager shall submit a proposal to the Bureau Director for providing such protection, the resources needed to provide the protection, and the steps being taken to resolve the threat.
- h. The Bureau Director will establish the manner and frequency of reports from the regional manager to the Bureau Director concerning the situation until the matter is resolved.

*Chapter 5 - Traffic Operations*

**510 Vehicle Towing and Release**

**510.1 PURPOSE AND SCOPE**

Refer to the *California Peace Officers Legal Sourcebook* (Policy Manual § 106.5.3) for issues relating to vehicle impounds and inventories.

## *Chapter 6 - Investigation Operations*

### **600 Investigation and Prosecution**

#### **600.1 PURPOSE AND SCOPE**

When assigned to a case for initial or follow-up investigation, agents shall proceed with due diligence in evaluating and preparing the case for appropriate clearance or presentation to a prosecutor for filing of criminal charges.

#### **600.2 MODIFICATION OF CHARGES FILED**

Employees are not authorized to recommend to the District Attorney, Attorney General, or to any other official of the court that charges on a pending case be altered or the case dismissed. In all cases resulting in court prosecution, any request to modify the charges filed or to recommend dismissal of charges in a pending case shall be made to the District Attorney's Office or Attorney General's Office only as authorized by a Bureau Director or the Chief.

#### **600.3 CUSTODIAL INTERROGATION REQUIREMENTS**

Refer to Chapter 7, Section III of the *California Peace Officers Legal Sourcebook* (Policy Manual § 106.5.3) for issues related to this subject matter.

## **601 Investigative Funds**

### **601.1 PURPOSE AND SCOPE**

The Investigative Fund is authorized by Health and Safety Code § 11454 for the purchase of controlled substances for evidence and in the employment of operators to obtain evidence by agents of this department.

### **601.2 CONTROL OF INVESTIGATIVE FUNDS**

The Bureau Director is responsible for all funds expended by the regional offices from the Revolving Fund. Reports of expenditures shall be forwarded on Operator-Evidence Expense Vouchers (JUS 901) to the Bureau Director for review or approval as appropriate. After approval, the vouchers shall be forwarded to OPS for accounting and auditing purposes. OPS reimburses the appropriate SAC by check.

#### **601.2.1 ACCOUNTABILITY FOR INVESTIGATIVE FUNDS**

Each SAC and TFC is accountable for the proper disbursement and control of the monies held in or disbursed from the Investigative Fund and for the submission of Operator-Evidence Expense Vouchers.

### **601.3 CASH FUND AUDIT**

Regional office and task force Investigative Funds must be audited on a monthly basis.

#### **a. Definitions**

1. Permanent Operator Evidence Fund Allocation - A permanent investigative fund advance allocated to the regional office for utilization for its operation. The amount that each unit receives is authorized by the Bureau Director.
2. Temporary advance - A temporary investigative fund advance allocated to the regional office for utilization for its operation in addition to the permanent investigative fund. The amount of the temporary advance is authorized by the Bureau Director.
3. Flash Rolls - Also referred to as temporary advances, flash rolls are used to assist in the purchase of evidence and are drawn from the Revolving Fund account. These temporary advances are used by agents to show the individual that they have the money to make an evidence purchase. Flash rolls are not used to purchase the evidence and should be distinguished from the regular investigative fund money, which are used to make the actual evidence purchase.

4. Outstanding Temporary Advance - Flash rolls received in a prior month that have not been returned to the Revolving Fund account and are retained by the regional office/task force at the end of the previous month.
5. New Temporary Advance - Current month flash rolls drawn from the Revolving Fund account and retained by the regional office/task force at the end of the month.
6. Repayment of Temporary Advance - Deposit/return of the current and/or prior month flash rolls to the Revolving Fund account for the current month Cash Fund Audit Report
7. Uncashed Reimbursement Checks - Revolving Fund check(s) the regional office received from OPS Accounting for the reimbursement of previously submitted Operator Evidence Expense Vouchers, that have been not deposited or cashed at the end of the month
8. Outstanding Vouchers:
  - a. Regional Office - Outstanding Vouchers are the Operator Evidence Expense vouchers that have been submitted by agents and/or SAS/TFCs for the expense of evidence funds to the SAC, and the vouchers have not been submitted to bureau headquarters/DAS Accounting for reimbursement at the end of the month.
  - b. Task Force - Outstanding Vouchers are the Operator Evidence Expense Vouchers that have been submitted by agents for the expense of evidence funds to the SAS/TFC but have not been submitted to the regional office for return of advance at the end of the month.
9. Outstanding Advance to Agents:
  - a. Regional Office - Outstanding advances to agents are evidence funds assigned by the SAC to agents and/or SAS/TFCs that operate from the regional office that have not been returned at the end of the month.
  - b. Task Force - Outstanding advances to agents are evidence funds assigned by the SAS/TFC to agents for field operations that have not been returned at the end of the month.
- b. Regional Offices:
  1. At the end of each month, the SAC shall conduct an audit of the state Investigative Funds assigned to his/her regional office. The cash fund audit shall be conducted by a designated "auditor" not associated with the funds. The audit shall be prepared using the DOJ Cash Fund Audit form (JUS A-70, available on the DOJ Intranet), which shall reconcile cash on hand, uncashed reimbursement checks, completed

vouchers, special advances (flash rolls and additional evidence advances) received by the office, and cash advances assigned to agents.

2. By the fifth calendar day of every month, the SAC or designee shall contact the OPS Revolving Fund Unit to obtain a faxed copy of their regional office's open item report. This report lists funds advanced to the regional office during the previous month and shall be used as the basis when completing the JUS A-70 to ensure compatibility with OPS accounting records. Questions regarding the completion of the JUS A-70 form should be directed to, and open item lists should be requested from, the OPS Revolving Fund Unit at (916) 324-5076.
3. Upon completion of the JUS A-70 form, the SAC shall sign this form as the "Custodian," and the person conducting the audit shall sign as the "Auditor." All JUS A-70 forms shall be completed and forwarded, with original signatures, to OPS by the fifteenth day of the following month for which the form is completed. The form shall be mailed via U.S. mail to the OPS Accounting Office - Revolving Fund Unit, P. O. Box 944256, Sacramento CA 94244-4256. A copy shall also be forwarded to bureau headquarters by the fifteenth of the month. The regional office shall maintain copies of all monthly audit reports on file, in accordance with DOJ's records retention schedule.

c. Task Forces:

1. At the end of each month, the TFC shall direct an audit of all Investigative Funds (State, task force, local or WSIN) assigned to his/her office from the regional office. A designated person not associated with the funds shall conduct the cash fund audit. The audit shall be prepared using the JUS A-70 form, which shall reconcile cash on hand, completed vouchers, special advances (flash rolls and additional evidence advances) received by the task force office, and cash advances.
2. Upon completion of the JUS A-70 form, the TFC shall sign this form as the "Custodian" and the person conducting the audit shall sign as the "Auditor." The JUS A-70 forms, with original signatures, shall be completed and forwarded to the task force's regional office SAC by the tenth working day of each month. The task force and regional office shall both maintain copies of all task force monthly cash audit reports on file, in accordance with DOJ's records retention schedule. The audit records for the task force, local and WSIN funds shall be maintained separately from state funds audit records.
3. The regional office shall maintain a file of the JUS A-70 forms submitted by the Task Forces assigned to the regional office. The JUS A-70 forms shall be filed chronologically and by task force. The JUS A-70 shall indicate when the form was received by the regional office, and the SAC shall initial and date that he/she has reviewed the JUS A-70.

- d. Cash Fund Audit Report:
  - 1. Regional Office - The SAC is accountable for Investigative Funds expended by the regional office from the Permanent Operator Evidence Fund Allocation. The accountability of the funds is reported on the JUS A-70. This report is also referred to as the cash fund audit report.
  - 2. Task Force - The SAS/TFC is accountable for Investigative Funds expended by the task force from the advance to agent by the SAC. The accountability of the funds is reported on the JUS A-70.
- e. JUS A-70 Operator Evidence Cash Fund Audit Report:
  - 1. At the end of each month, the SAC and TFC(s) shall conduct an audit of the state Investigative Funds assigned to his/her regional office/task force. The Cash Fund Audit shall be conducted by a designated "auditor"/ person not associated with the funds. The audit shall be prepared using the JUS A-70 form, which shall reconcile cash on hand, uncashed reimbursement checks, completed vouchers, special advances (flash rolls and additional evidence advances) received by the office, and cash advances assigned to agents and/or task forces.
  - 2. Questions regarding the JUS A-70 form should be directed to the OPS Revolving Fund Unit at (916) 324-5076.

## **601.4 INVESTIGATIVE FUND EXPENDITURE AUTHORITY**

The maximum amount that may be expended, without prior approval, by the SACs in each bureau for the purchase of evidence, the employment of informants or operators, payment of investigation expenses, witness protection, and undercover gambling, is \$10,000. The standard \$10,000 limit may be reduced at the discretion of the Bureau Director or for budgetary reasons by the Chief, Deputy or Assistant Chief or DAS.

Any expenditure in excess of the authorized amount shall be approved in advance by the Bureau Director or Assistant Chief. In the event a SAC has expended his/her annual allotment of Investigative Funds, the SAC's spending authority is suspended until there has been an approved augmentation to his/her annual allotment. The SAC may request an augmentation of their allotment in writing through the Bureau Director to the Chief or designee. The request shall state the amount requested and the reason the augmentation is needed. Requests shall be considered on a case-by-case basis. Augmentations are Investigative Funds and shall be expended in accordance with this manual. Approval of an augmentation shall not be considered a permanent increase in the regional office's Investigative Fund allotment.

SACs shall establish spending authorizations for SASs under their command. The spending authorizations permit the SASs to expend Investigative Funds without the prior specific approval of the SAC. The authorization shall be in writing and shall identify the limits of the

authorizations. SASs without written spending authority, or whose spending authority has been suspended in writing, shall obtain approval from the SAC prior to the expenditure of any Investigative Funds.

Spending authorizations may vary between regional offices and between SASs within the same regional office, including those SASs assigned as TFCs. The authorizations may also be different for the purchase of evidence, payment for information and informant services, payment for investigation expenses, and payment for witness protection.

Agents shall obtain specific supervisory approval prior to the expenditure of any Investigative Funds.

SASs assigned to task forces shall establish spending authorities for only those agents or officers acting as second in command. If established, those authorizations shall be in writing, and a copy shall be given to the second-in-command and the SAC. All other task force agents shall obtain prior supervisory approval to spend Investigative Funds, regardless of whether the funds are state or local funds.

## **601.5 RECEIPT OF MONEY ADVANCED - SACS**

When Investigative Funds are issued to a SAS, TFC, or Special Agent by the SAC, a triplicate Fund Advance IOU Receipt form (JUS 8849) shall be completed by the receiving SAS, TFC, or Special Agent. SACs shall also complete a JUS 8849 whenever they obtain a cash advance. The JUS 8849 shall contain the date, the amount advanced (numerically and spelled out), either an investigation number or a short explanation as to the specific purpose for which the funds were drawn, the program code, and the signatures of the SAC and the receiving SAS, TFC, or Special Agent. The top copy of the JUS 8849 shall be placed in the cash box. The second copy of the JUS 8849 shall be left in the receipt book, which is maintained by the SAC. The bottom or third copy shall be issued to the receiving SAS, TFC, or Special Agent.

At no time shall agents use personal funds to conduct field operations or investigative activities, or to purchase evidence or pay for information.

All funds advanced shall be accounted for within 35 days by either a return of the money or a properly completed JUS 901. At that time, a new JUS 8849 shall be completed if the individual clearing the receipt retains or draws Investigative Funds. TFCs shall clear the receipt within 65 days, rather than 35 days. When the JUS 8849 receipt has been cleared, the issuing SAC shall enter the date the receipt was cleared, sign the JUS 8849 as the clearing signature, and add the appropriate investigation number if it differs from the original investigation number written on the JUS 8849, or add an investigation number if none was drawn at the time the funds were issued. The SAC shall note on the receipt the voucher numbers, total amount in vouchers, and amount of cash returned when clearing a receipt for money advanced. These notations shall be made on both the JUS 8849 in the cash box and the JUS 8849 in the receipt book. The copy of the JUS 8849 in the receipt book shall be retained in the receipt book by the SAC for three years

from the date of issue. The top copy shall be taken from the cash box and given to the person clearing the receipt.

### **601.5.1 RECEIPT OF MONEY ADVANCED - SAS**

When Investigative Funds are issued to a Special Agent by an SAS or TFC, a triplicate JUS 8849 receipt shall be completed by the Special Agent. The JUS 8849 receipt shall contain the date, the amount advanced (written both numerically and in cursive), either an investigation number or a short explanation as to the specific purpose for which the funds are drawn, and the signature of both the SAS/TFC and the receiving Special Agent. The top copy of the JUS 8849 shall be placed in the cash box. The second copy of the JUS 8849 shall be left in the receipt book, which is maintained by the SAS/TFC. The bottom or third copy shall be issued to the receiving Special Agent.

All funds advanced shall be accounted for within 35 days by either a return of the money or a properly completed Operator-Evidence Expense Voucher. At that time a new JUS 8849 shall be completed if the individual retains or draws Investigative Funds. When the JUS 8849 receipt has been cleared, the issuing SAS or TFC shall enter the date the receipt was cleared, sign the JUS 8849 as the clearing signature, and add the appropriate investigation number if it differs from the original investigation number written on the JUS 8849, or add an investigation number if none was drawn at the time the funds were issued. The SAS or TFC shall note on the receipt the voucher numbers, total amount in vouchers, and amount of cash returned when clearing a receipt for money advanced.

These notations shall be made on both the JUS 8849 in the cash box and the JUS 8849 in the receipt book. The copy of the JUS 8849 in the regional office receipt book shall be retained in the receipt book by the SAC for three years from the date of issue. The copy of the JUS 8849 in the TFC's receipt book shall be retained in the receipt book by the TFC for three years from the date of issue. The top copy shall be taken from the cash box and given to the person clearing the receipt.

In instances where units expend state funds and other issued funds such as task force, local, or WSIN funds, the SAC, SAS, or TFC shall use a JUS 8849 book for state issued funds and a separate JUS 8849 book for other investigative funds such as task force funds, local, WSIN funds, etc. The JUS 8849 book for state funds shall be clearly marked as such to avoid confusion. When using the "Other Funds" JUS 8849 book, the issuer shall clearly list the funding source on the individual receipt, i.e., task force funds, local funds, WSIN funds, etc.

### **601.6 PURCHASE OF EVIDENCE, INFORMATION, PAYMENT OF INVESTIGATION EXPENSES, AND WITNESS PROTECTION**

The Operator-Evidence Expense Voucher (JUS 901) shall be utilized for the expenditure of Investigative Funds. These funds shall be limited to: 1) purchase of evidence, 2) payment for information and informant services, 3) payment of investigation expenses, and 4) witness protection. Voucher numbers are automatically generated by CIMS for official case files. An

informant number shall be a required field if the type of expense selected is related to an informant. The CIMS Expenditure Report shall be used for tracking all expenditures.

- a. Purchase of evidence: Funds may be used in the undercover purchase of different types of evidence related to the accomplishment of the mission. All vouchers for the purchase of evidence shall contain an investigation number and the evidence item number of the evidence purchased.
- b. Payment for information and informant services: Funds may be used to pay informants for information or specific services rendered in furtherance of an investigation. Vouchers for payments to informants shall contain an investigation number.
- c. Payment of investigation expenses: Funds may be used for expenses directly relating to a specific investigation wherein normal state purchasing methods are inappropriate because of timeliness or circumstances. Typical examples include undercover rental vehicles, undercover or surveillance rooms, film, batteries, undercover meeting expenses such as refreshments or food, and per diem or travel expenses for informants. All vouchers for investigation expenses shall contain an investigation number.
  1. Funds for investigation expenses shall not be used to circumvent normal purchasing or contracting procedures.
  2. Funds may also be used for translation services provided the following procedures are followed.
    - a. The SAC shall ensure that the need for the services is time critical and/or relates to a confidential case. A written request specifying these reasons shall be submitted to the appropriate Bureau Director for review on a case-by-case basis.
    - b. The funds shall not be expended without written approval from the Bureau Director.
    - c. The costs per request shall not exceed \$1,000 without written approval from the Chief or designee.
    - d. A copy of the written approval for the translation services from the Bureau Director or Chief shall be filed with the regional office copy of the vouchers.
  3. All personnel shall attempt to utilize the Service Authorization form (JUS A400) or State contracting process prior to expending Investigative Funds for services.
- d. Payment for witness protection: Funds may be used to provide protection for witnesses for such expenses as relocation, per diem, housing, transportation, etc., after an investigation is completed and while awaiting court. All vouchers for witness protection expenses shall contain an investigation number. Indicate "witness protection" under voucher recap.

## **601.7 SUBMISSION OF VOUCHERS**

Completed Operator-Evidence Expense Vouchers shall be logged and forwarded by the SAC to bureau headquarters within 90 days. SACs should submit vouchers as they are completed to facilitate the timely reimbursement of funds. TFCs shall route vouchers to their SAC for processing as soon as practical, but no later than 65 days after issuance. However, all vouchers shall be submitted prior to the end of the fiscal year.

## **601.8 REIMBURSEMENT TO THE INVESTIGATIVE FUND**

Reimbursement checks covering the amount of expenditures are issued by DAS. Upon receipt of these checks, the SAC shall check and compare the voucher numbers and amounts on the check print out against copies of submitted vouchers, which are held in the regional office files, to ensure accuracy. In the event of any discrepancies, the check(s) shall not be cashed, and OPS shall be contacted for instructions regarding the check(s). The date of reimbursement and the check number shall be entered in blocks 31 and 32 on the JUS 901.

## **601.9 EXCESS FUNDS**

A common investigative technique used during covert investigations of gaming establishments is undercover gambling, wherein State funds are expended to enhance, prove, demonstrate or produce information pertaining to a violation of any governing ordinance, regulation, or law by a targeted gaming site. State funds are expended and reported in accordance with the procedures of this policy; however, this use of State funds is unique in that the funds may be “lost” (expended) or “won” (excess). For the purpose of this section, the term “operation” refers to investigative activity occurring at a single establishment on a single day.

In order to preserve the integrity of the operation, agents should have a law enforcement witness present whenever possible while gambling undercover with State funds. It is appropriate for agents to continue to gamble with excess funds during the same shift and at the same gaming establishment at which the funds were won. After the agent has left the gaming establishment at which the excess funds were won, the funds shall not be used for any other operation.

Currency that is won or seized at an illegal game or event shall be handled and processed as evidence. Excess currency that is won or seized at a legal game or event shall be handled as winnings and reconciled in the following manner at the conclusion of every such operation:

- a. Any funds up to the amount of the original advance shall be submitted to the supervisor to be returned to the investigative fund.
- b. If all or part of the original advance was lost, the loss shall be reported as an expenditure using a JUS 901.

- c. Any winnings in excess of the amount of the original advance shall be tracked in a Miscellaneous Revenue Receipt (MRR) log and submitted to OPS Accounting in accordance with the following procedures:
  1. The agent shall count the excess funds, complete Section A of the Miscellaneous Revenue Receipt form (JUS 8737) and deliver the funds and the JUS 8737 to the SAC as soon as possible.
  2. When excess funds are submitted to the SAC, he/she shall verify the count, log the funds and store them in the SAC safe. The blue copy of the JUS 8737 is then given to the agent for placement in the case file.
  3. The SAC shall ensure that the funds are delivered to OPS Accounting within 90 days and note the transfer in the MRR log. OPS will complete and retain the white (original) page of the JUS 8737; the pink copy is returned to the office and stored in the office's MRR file.

## **601.10 REGIONAL OFFICE EXPENDITURE REPORTS**

SACs are responsible for generating a monthly expenditure report in CIMS, sorted by voucher number. These reports may be sorted by voucher number, investigation number, program code, or confidential informant identification number. The SAC shall maintain a file of monthly expenditure reports printed from CIMS. The expenditure report shall be signed and dated by the SAC when it is reviewed and reconciled with the monthly cash audit.

### **601.10.1 TASK FORCE EXPENDITURE LOG**

TFCs shall maintain monthly expenditure reports or logs which reflect the expenditure of state and/or task force Investigative Funds. Task forces that use State funds shall use the expense log generated from CIMS to account for the expenditure of Investigative Funds. The TFC shall either print out or obtain from the regional office a printout of all Investigative Funds expended on a monthly basis. The TFC shall review, correct if necessary, and sign the monthly expenditure report by the tenth of each month. A file of the monthly expenditure logs shall be maintained by each task force.

If the task force is not using State funds for investigations, a log or ledger shall be kept to account for the expenditure of task force or other investigative funds. This log shall be kept at the task force in a bound ledger and shall include the date of expenditure, investigation number, payer's name, task force voucher number, type of expenditure (evidence, information, investigation expenses, or witness protection), and amount of expenditure. This log shall be maintained and reviewed on a monthly basis and shall show the totals of all monies expended in each category and the total amount of funds expended for the month. The TFC shall review, correct if necessary, and sign the log by the tenth of each month. The regional office SAC shall review, initial, and date the bound ledger each month.

Automated logs may be used in lieu of bound ledgers for Investigative Funds other than State funds, upon the recommendation of the SAC and the approval of the Bureau Director. The automated expenditure log shall contain the same information required in the bound ledger. In addition, a printout of the log shall be made each month for review, correction if necessary, and signature by the SAC and the TFC by the tenth of each month. A file of the printouts shall be maintained at the regional office and at the task force.

## **601.11 THEFT OR LOSS OF INVESTIGATIVE FUNDS**

Funds drawn by an agent shall be secured at all times. Should a theft or loss of state funds occur, the SAC shall immediately initiate an investigation into the circumstances and notify their Bureau Director who shall immediately notify the Deputy or Assistant Chief. The results of the investigation shall be forwarded to the Chief, accompanied by the SAC's evaluations and recommendations. The Chief shall immediately forward a copy of the results of the investigation and recommendations to the Deputy or Assistant Chief. If the funds were stolen, a report to the appropriate police agency shall be made by the SAC. In order to replenish lost funds, SAM §§ 8072 through 8072.3 shall be followed.

When a loss or theft of funds drawn by an agent occurs, and after review of the facts surrounding such theft or loss it is determined that the agent responsible for the funds was negligent, DLE may initiate action to discipline the agent and/or recover from him/her the amount of the lost funds.

When the loss or theft of funds drawn by a non-DOJ officer assigned to a task force occurs, and after review of the facts surrounding such theft or loss, if it is determined that the officer responsible for the funds was negligent, DLE may initiate action to recover from him/her the amount of lost funds. The Bureau Director shall ensure that a report of the incident is submitted to the officer's parent agency for appropriate action.

Each task force shall develop unit specific manual language establishing policies and procedures for addressing the theft or loss of non-state investigative funds.

## **601.12 RECOVERED MONEY RECEIPTS**

When Investigative Funds have been expended and the expended funds are recovered, the recovery shall be documented by use of an RMR form (JUS 806) within ten days. Instructions for completion and routing are on the form. The voucher that documents the expenditure of State funds that are subsequently recovered shall be updated to reflect the recovery of the funds and the RMR number.

SACs and TFCs shall maintain an RMR log book. This log book shall show the RMR number, date money was recovered, amount of money recovered, date the SAC or TFC received the funds, defendant's name, investigation number, date of disposition, and name of the agent submitting the recovered funds. Upon receipt of the money, the SAC/SAC or TFC shall personally count the currency and maintain it in a completed evidence envelope.

Upon final disposition of cases in which money has been held, the money shall be converted to a check or money order and forwarded to OPS Accounting immediately as indicated in the instructions on the RMR.

The SAC may delegate this responsibility to TFCs for State money recovered by the task forces, but shall approve the procedure used. The TFC shall neither delegate this responsibility to another office or agency nor store the recovered money with another agency.

RMRs are assigned by the SAC to TFCs for State money recovered by task forces. Completed forms shall first be routed through the regional office SAC before being sent to DAS. A copy of the RMR shall be retained in a regional office file, to be replaced with a copy of the completed disposition RMR when sent to OPS along with the currency.

Each task force shall develop unit-specific manual language establishing policies and procedures addressing the recovery of non-State investigative funds.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## **602 Sexual Assault Victims' DNA Rights**

### **602.1 PURPOSE AND SCOPE**

Consistent with Penal Code § 293 and the Sexual Assault Victims' DNA Bill of Rights (Penal Code § 680), this policy will establish a procedure by which sexual assault victims may inquire about and be provided with information regarding the status of any DNA evidence in their case, their right to confidentiality and other rights afforded by law.

### **602.2 INVESTIGATION CONSIDERATIONS**

#### **602.2.1 VICTIM CONFIDENTIALITY**

Agents investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting agent shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code 293 § (a) and (b)).

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

#### **602.2.2 OFFICER RESPONSIBILITY**

When an agent becomes aware of an alleged sex offense, he/she shall immediately notify the local law enforcement agency having jurisdiction. The agent may assist the local agency with its investigation, if requested.

### **602.3 TESTING OF SEXUAL ASSAULT EVIDENCE**

- a. Subject to available resources and other law enforcement considerations which may affect the ability to process and analyze rape kits or other sexual assault victim evidence and other crime scene evidence, any member of this department assigned to investigate a sexual assault offense (Penal Code §§ 261, 261.5, 262, 286, 288a or 289) should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g).
- b. If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue is not going to be analyzed within two years of the crime, the

assigned agent shall notify the victim of such fact in writing within no less than 60 days prior to the expiration of the two-year period (Penal Code § 680(d)).

## **602.4 VICTIM NOTIFICATION OF DNA STATUS**

- a. Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, the assigned agent may inform the victim of the status of the DNA testing of any evidence from the victim's case.
  1. Although such information may be communicated orally, the assigned agent should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
  2. Absent a written request, no member of this department is required to, but may, communicate with the victim or victim's designee regarding the status of any DNA testing.
- b. Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights:
  1. To be informed whether or not a DNA profile of the assailant was obtained from the testing of the rape kit or other crime scene evidence from their case.
  2. To be informed whether or not the DNA profile of the assailant developed from the evidence has been entered into the Department of Justice Data Bank of case evidence.
  3. To be informed whether or not there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the Department of Justice Convicted Offender DNA Database, provided that disclosure would not impede or compromise an ongoing investigation.
- c. Provided that the sexual assault victim or victim's designee has kept the assigned agent informed with regard to current address, telephone number and email address (if available), any victim or victim's designee shall, upon request, be advised of any known significant changes regarding the victim's case.
  1. Although such information may be communicated orally, the assigned agent should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
  2. No agent shall be required to or expected to release any information which might impede or compromise any ongoing investigation.

## **602.5 DESTRUCTION OF DNA EVIDENCE**

Any destruction of evidence related to a sexual assault shall occur only after victim notification is made as required pursuant to Penal Code § 680 and only in compliance with Policy 804.

## **606 Asset Forfeiture Policy**

### **606.1 PURPOSE AND SCOPE**

**The purpose of this policy is to ensure procedures are in place to maintain compliance with federal accounting and administrative policies as set forth in the current Guide to Equitable Sharing for State and Local Law Enforcement Agencies (Guide). Accordingly, the procedures will be updated to comply with policy updates released through the official Equitable Sharing Wire (Wire) communication issued by the U.S. Department of Justice Equitable Sharing Program (Program).**

The Division's complete procedures for handling forfeited or seized assets and seizing assets for forfeiture consideration in the form of currency, real estate, automobiles, boats, aircraft, or any other items of value may be found in the DLE Asset Forfeiture Manual, which is available on the Intranet.

### **606.2 GENERAL CONSIDERATIONS**

Federal equitably shared funds must only be used to increase the resources made available to the receiving agency. Shared funds **may not be utilized to replace or supplant** the DOJ's budgeted resources. The DOJ must benefit directly from equitable sharing without negating that benefit through a reduction in budgeted funds. So long as the DOJ's overall budget has not decreased as a result of receiving shared funds, supplanting has not occurred. (*Guide*, Section V.A)

### **606.3 ROLES AND RESPONSIBILITIES**

- a. DLE Chief – approves all expenditures to ensure permissibility and authorizes submission of annual Equitable Sharing Agreement and Certification (ESAC) form required via electronic certification.
- b. Office of the Chief – reviews all expenditures to ensure that the use of shared funds is processed and accounted for under the applicable procurement policies. Reviews and finalizes the annual ESAC, ensuring it is prepared on a cash basis and submitted timely.
- c. DOJ Division of Operations Chief – authorizes the ESAC via electronic certification, alongside the DLE Chief, to certify the DOJ's compliance with the Program guidelines and statutes.
- d. DOJ Accounting Office – Conducts monthly and annual reconciliation of equitable sharing funds against bank statements and account ledgers.

- e. DOJ Office of Program Oversight and Accountability – Reports expenditures of federal funds annually per the Office of Management and Budget Circular A-133 Single Audit requirements.
- f. State Treasurer’s Office – Maintains accounts within the Centralized State Treasury System where equitable sharing funds are deposited.
- g. State Controller’s Office – Provides monthly account statements and deposits interest earned on equitable sharing funds into the Federal Asset Forfeiture Account on a quarterly basis.

## **606.4 INTERNAL CONTROLS**

### **606.4.1 ACCOUNTING AND TRACKING OF REVENUES**

Individual cost codes have been established for state, U.S. DOJ, and U.S. Treasury equitable sharing funds, which may not be commingled with each other or any other funds. Interest income earned on equitably shared funds shall be deposited under the accounting code established solely for the shared funds. This interest is subject to the same restrictions as shared funds. (*Guide*, Section VI.A.4). No investment losses may be allocated to or deducted from equitable sharing funds.

Any proceeds from the sale of property purchased with equitable sharing funds or transferred to the DOJ for official use shall be deposited under the accounting code established solely for those shared funds. These proceeds are subject to the same use restrictions as shared cash or proceeds. (*Guide*, Section VI.A.8)

The assigned BI Investigative Auditor will utilize the eShare account to view and track federal sharing requests, and to reconcile receipts with distributions.

### **606.4.2 EQUITABLE SHARING FUND EXPENDITURES**

**Equitable sharing funds shall be expended in compliance with the *Guide*, in addition to all applicable state and DOJ contract, purchasing and travel policies and procedures. Only the DLE Chief may authorize expenditures of equitable sharing funds. All expenditures shall be reported on the Single Audit Report and listed on the Schedule of Expenditures of Federal Awards.**

### **606.4.3 PERSONAL SERVICES**

Equitable sharing monies may not be used to pay the salaries and benefits of sworn or non-sworn law enforcement personnel, except in limited circumstances:

- a. Shared funds may be used to pay the match requirement for the salaries and benefits of current sworn and non-sworn law enforcement personnel funded by federal grant programs.

- b. Shared funds may be used to pay the overtime and benefits of current sworn and non-sworn law enforcement personnel involved in law enforcement operations.
- c. Shared funds may be used to pay the salary and benefits of current, sworn law enforcement officers hired to fill vacancies created when a law enforcement agency assigns officers to a task force. The replacement officer cannot engage in the seizure of assets or narcotics law enforcement as a principal duty. When a law enforcement agency has assigned an officer and paid for the replacement as specified above, and it becomes necessary to return the officer from the task force, the law enforcement agency may continue to use forfeited funds to pay for the salary and benefits of the replacement officer for a period not to exceed six months.

#### **606.4.4 TANGIBLE AND REAL PROPERTY**

Forfeited tangible or real property transferred to the DOJ for official use must be used for law enforcement purposes only. Tangible property must be retained and used for a minimum of two years following the transfer; real property must be retained for five years.

After two years, tangible property may be sold and the proceeds deposited into the equitable sharing account. Such proceeds must be reported on the ESAC as "Other Income." No forfeited property shall be transferred or sold without the advance approval of the DLE Chief.

#### **606.4.5 CASH TRANSFERS TO OTHER LAW ENFORCEMENT AGENCIES**

Equitable sharing funds may not be transferred to other law enforcement agencies unless a waiver is granted pursuant to *Guide* Section VII.C.

If authorized, the transfer must be reported on the Equitable Sharing Agreement and Certification form filed by both the transferring and recipient agencies. Shared funds may not be used to purchase equipment or other permissible items for other law enforcement agencies.

#### **606.4.6 RECORD RETENTION**

The Office of the Chief will maintain copies of the annual ESACs for a minimum of five years.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- 1. [REDACTED]

- 2. [REDACTED]

- 3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

| [Redacted]

[Redacted]

[Redacted]

| [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

| [Redacted]

| [Redacted]

| [Redacted]

| [REDACTED]

| [REDACTED]

| [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

| [REDACTED]

[REDACTED]

- 1. [REDACTED]

- 2. [REDACTED]

- 3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## **615 Interaction with Prisoners and Defendants**

### **615.1 PURPOSE AND SCOPE**

This policy governs employee recommendations regarding, and intercession on the behalf of, prisoners and defendants.

### **615.2 RECOMMENDING ATTORNEYS OR BAIL BONDSMEN**

No employee shall, in an official capacity, recommend to any suspect, defendant or prisoner, either directly or indirectly, the employment of any specific person or firm as an attorney or bail bondsman. If such a request is made, the employee may provide a telephone directory, if available, to the requester.

#### **615.2.1 RECOMMENDING BAIL**

Employees may make bail recommendations only with the approval of regional management and in accordance with Penal Code § 1269c.

### **615.3 INTERCEDING FOR DEFENDANTS**

No employees shall intercede on behalf of a defendant to obtain a complaint rejection, a reduction in charges, or the dismissal of charges without first consulting with, and obtaining the approval of, the prosecutor.

Contact for this purpose shall be made only with the approval of regional management. No employee shall use his/her official capacity to intercede for a defendant facing charges that do not have a direct correlation to the employee's official duties. Refer to Policy Manual § 600.2.

### **615.4 DISCUSSING PROSECUTION ACTION**

No employee shall make commitments to a prisoner or his/her counsel regarding the prosecution action to be taken without the prior approval of regional management and, if the prisoner is a confidential informant, in conformance with Policy Manual § 608.

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]
- | [REDACTED]

## *Chapter 7 - Equipment*

### **700 Department-Owned and Personal Property**

#### **700.1 PURPOSE AND SCOPE**

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

#### **700.2 CARE OF DEPARTMENTAL PROPERTY**

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

- a. Employees shall promptly report through their chain of command, any loss, damage to, or unserviceable condition of any Department-issued property or equipment assigned for their use.
- b. The use of damaged or unserviceable department property should be discontinued as soon as practical and replaced with comparable Department property as soon as available and following notice to a supervisor.
- c. Except when otherwise directed by competent authority or required by exigent circumstances, Department 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 property shall not be thrown away, sold, traded, donated, destroyed, or otherwise disposed of without proper authority.
- e. In the event that any Department property becomes damaged or unserviceable, no employee shall attempt to repair the property without prior approval of a supervisor.

#### **700.3.1 REPORTING REQUIREMENT**

The responsibility to report lost, stolen or damaged Department property falls to the employee to whom the item was issued or, in the case of pool equipment, the employee who was using the item at the time of the loss, theft or damage. A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit. Immediately upon discovery of the loss or theft of any Department property, the employee shall notify the appropriate local law enforcement agency and request a report.

- a. A written report shall be submitted within 48 hours.
  1. A copy of the police report, if any, shall be attached.
- b. The supervisor shall carefully review the circumstances surrounding the loss, theft or damage and shall submit a memorandum to the Deputy or Assistant Chief, via his/her chain of command, that shall include an outline whether the loss, theft or damage was the result of apparent negligence or misuse and indicate the need for replacement.
  1. A copy of the employee's memorandum and police report, if any, shall be attached to the supervisor's memorandum.
- c. The lost, stolen or damaged item may be replaced with the Deputy or Assistant Chief's approval.
- d. The employee's supervisor will notify him/her if the loss, theft or damage is determined to have been caused by his/her negligence or misuse.

This policy applies to all Department property, including but not limited to vehicles, firearms, control devices, uniforms, identification cards, badges, credit cards, personal communication devices and IT equipment, and is in addition to the Department's reporting requirements found in DOJAM § 11280 et seq.

The theft of any personal property from a DOJ facility should be reported to the CHP; the Deputy or Assistant Chief, Bureau Director, and Facilities Protection Unit should be provided with copies of the CHP's report.

### **700.3.2 REPORTING THEFT, EMBEZZLEMENT OR FRAUD**

Employees are expected to safeguard state assets such as evidence, information and funds. All incidents of actual or suspected theft, embezzlement, or fraud occurring on DOJ property shall be reported, through the employee's supervisor, to the Bureau Director verbally within 24 hours of discovery. Such incidents include but are not limited to embezzlement of state funds, theft or loss of evidence, obtaining or distributing confidential or sensitive materials or information without permission, and making improper payments such as bribes or kickbacks.

A memorandum detailing the incident shall be submitted to the Deputy or Assistant Chief, via the Bureau Director, within 48 hours of discovery. The memorandum shall describe the missing item(s), the location of the incident, how it was discovered, and any supporting evidence. The employee's bureau will conduct the preliminary review and forward the results to the Deputy or Assistant Chief, who will determine any further action.

### **700.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER**

Agents and other employees intentionally or unintentionally may cause damage to the real or personal property of another while performing their duties. Any employee who damages or

causes to be damaged any real or personal property of another while performing any law enforcement functions, regardless of jurisdiction, shall report it as provided below.

- a. A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.
- b. A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

#### **700.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY**

If employees of another jurisdiction cause damage to real or personal property belonging to the State, it shall be the responsibility of the employee present or the employee responsible for the property to make a verbal report to his/her immediate supervisor as soon as circumstances permit. The employee shall submit a written report before the employee goes off duty or as otherwise directed by the supervisor.

These written reports, accompanied by the supervisor's written report, shall promptly be forwarded to the appropriate Bureau Director.

#### **700.5 ACQUISITION OF PROPERTY**

Property shall be acquired in accordance with established State and Department purchasing procedures, which may be found in DOJAM § 11100 et seq., or the alternate methods of acquisition outlined in § 700.5.1. Each supervisor is expected to evaluate the operational necessity of the item(s) being acquired prior to granting approval.

##### **700.5.1 ALTERNATE METHODS OF ACQUISITION**

Equipment may occasionally be acquired through methods other than the regular purchasing process.

- a. Equipment may be obtained through an order of the appropriate court of jurisdiction provided the equipment obtained shall be used in the furtherance of an investigative and/or enforcement effort.
- b. Firearms may be accepted under the following conditions:
  1. The firearm is needed by BFS for its reference collection and approved by the Bureau Director. The regional manager shall submit a memorandum to bureau headquarters explaining the need for the weapon, and requesting permission to acquire the weapon. If the Bureau Director approves the acquisition, he/she will respond in writing to the laboratory and a copy of his/her response will be forwarded to the DLE Firearms Officer. If the request is approved, the regional manager is

responsible for ensuring that the proper court orders are obtained to transfer ownership of the firearm to the DOJ and the firearm is added to AMS.

2. The firearm meets the Division's policy requirements set forth in § 312 (and, if a shoulder weapon, § 432) and is approved by both the DLE Firearms Officer and the Bureau Director. The SAC will submit to the Bureau Director a written request that explains in detail why the firearm is needed. The Bureau Director shall submit his/her approval to the DLE Firearms Officer. If the DLE Firearms Officer and the Bureau Director disagree regarding the suitability of the firearm, the Deputy or Assistant Chief will be the final deciding authority on whether the firearm will be accepted. If the request is approved, the SAC is responsible for ensuring that the proper court orders are obtained to transfer ownership of the firearm to the DOJ.
  3. The firearm is needed by the DLE Firearms Officer for familiarization purposes. The DLE Firearms Officer may request that firearms that do not meet the requirements of the Division's policy be accepted for this purpose. A written request shall be submitted to the Deputy or Assistant Chief and shall explain in detail why the firearm is needed. If the request is approved, the Firearms Officer is responsible for ensuring that the proper court orders are obtained to transfer ownership of the firearm to the DOJ. Any firearm that is accepted for this purpose shall be maintained by the ATC in its armory.
- c. Requests to place any acquired item, other than a firearm, into permanent state service shall be directed, in writing, to the appropriate Bureau Director. The request shall include a description of the equipment, model and serial number, condition of the item, source and location of the item, an estimated date to take legal possession of the item, and recommendation as to the potential use of the item. If approved by the Bureau Director, the request should be forwarded to the program's purchasing staff to obtain DOJ and Department of Finance (DOF) approval. All acquired items must be approved by the DOF before they are put into use.
  - d. Gifts to the Division or an individual bureau require the approval of the Chief, the DOF, and the Department of General Services before they may be accepted. Refer to DOJAM § 11231, SAM § 8634 and the DOF's website (<http://www.dof.ca.gov/fisa/bag/gifts>) for complete gift acceptance procedures and prohibitions.
  - e. No person in their official capacity as a DOJ employee shall obtain or accept any item, including weapons, for their personal use or ownership.

## **700.5.2 POOL EQUIPMENT**

Each facility will maintain a pool of equipment for use by personnel. The pool may include radio, optical, photographic, and any other equipment deemed necessary to carry out the functions of the division.

Pool equipment shall be used properly, in the intended manner, and in accordance with applicable laws, regulations, and/or policies. When an employee uses an item of pool equipment, he/she is responsible for the security of that item until it is returned to the equipment pool.

### **700.5.3 ATTRACTIVE EXPENDABLES**

Each facility will maintain a supply of attractive expendables (i.e. batteries, film, etc.) for the use of all employees.

### **700.5.4 INDIVIDUALLY ASSIGNED EQUIPMENT**

When a sworn position is vacated or filled, the SAC is responsible for ensuring the agent's equipment, credit cards, and other related items are inventoried; that appropriate items are retained, reissued, and/or returned to headquarters; and that all manual and automated files are updated.

Whenever an employee transfers or separates, his/her equipment and credit card records shall be reconciled against what has been issued as indicated on his/her Individually Assigned Equipment Inventory form (JUS 1444). A package containing the signed JUS 1444, an Internal Transfer of Location of Equipment form (JUS 111), the returned equipment (if any), and any other supporting documentation for lost or damaged items shall be forwarded to bureau headquarters within five days of the date of the equipment reconciliation. A copy shall also be retained by the Property Controller, TFC, or person in charge of equipment for inventory control.

### **700.5.5 STANDARD COMPLEMENT OF EQUIPMENT**

Each agent shall be issued a standard complement of safety, protective, and investigative equipment. This equipment, which the agent is required to have available for duty at all times and is authorized to retain when transferring within the Division, consists of the following:

- a. Duty weapon/holster
- b. Web gear
- c. Ballistic helmet
- d. Ballistic vest
- e. Peerless handcuffs and case
- f. Flex cuffs
- g. "POLICE" raid cap
- h. Raid jacket

- i. Badge with holder
- j. Credentials
- k. ASP baton with holder
- l. Binoculars
- m. Camera
- n. Tactical uniform pants, shirts (long- and short-sleeved) and boots
- o. Hearing protection
- p. Mesh jersey
- q. Equipment bag
- r. Cell phone
- s. Personal Trauma Kit (PTK)
- t. Clip-on DOJ identification card
- u. Flashlight
- v. Shooting glasses
- w. Critical Incident Manual
- x. Portable radio and charger (if assigned) (does not transfer with agent)
- y. OC aerosol canister and holder
- z. Digital recorder
- aa. Home safe
- ab. Foul weather jacket (Blauer model 9300z)
- ac. Two spare handgun magazines

Additional investigative and/or safety equipment may be issued to personnel assigned to programs with specialized needs. This type of equipment remains with the facility when the agent to whom it was assigned transfers to another location/bureau.

All DOJ-issued equipment shall be maintained by the personnel to whom the equipment is assigned and shall be in proper working order at all times.

## **700.5.6 BUSINESS CARDS**

Business cards should be made available only to those employees who need them as an integral part of their job. Regional managers are responsible for determining which employees should be supplied with business cards. The following three business cards are the only business cards authorized for employees of this division:

- a. The standard one-color, blue-ink business card printed by the Office of State Publishing features the Department logo in the upper right hand corner and is available to all staff.
- b. The business card printed by the DOJ Print Shop is the standard blue-ink business card with the Department logo in gold. This business card is available to sworn and non-sworn managers only.
- c. The business card printed by the Association of Special Agents is available to all members of that association, at the member's own expense.

## **700.6 PROPERTY CONTROL**

The regional manager is responsible for designating a property custodian, generally a Property Controller or TFC, to perform for that office the duties specified in DOJAM § 11221. The BMFEA personnel responsible for purchasing are identified in the BMFEA Directory of Services, which is available on the shared drive.

The property custodian must receive training and authorization from OPS to access the Asset Management System (AMS), which is used to track and generate labels for all non-expendable property valued at \$500 or more, regardless of the method by which the property was acquired. Instructions and procedures regarding property control and the use of AMS are found in DOJAM § 11200 et seq. and the AMS Property Custodian and Vehicle Coordinator Manual, which is issued by OPS to each AMS user.

The property custodian shall maintain an accurate listing of all property for which he/she is responsible. When property is acquired, the property custodian shall make the appropriate AMS entries, properly label the item(s), add the item(s) to the office's inventory list, ensure that the correct object code(s) have been used, ensure that the decal/asset and serial numbers are recorded on the purchase order documents, and forward those documents to the OPS Accounts Payable Unit.

### **700.6.1 INDIVIDUALLY ASSIGNED EQUIPMENT INVENTORY**

When equipment is issued to an employee, the employee's supervisor is required to complete a JUS 1444. Each year thereafter, the supervisor shall inspect the serviceability and physically inventory every item listed on the JUS 1444 during the employee's annual performance appraisal. The driving records and license statuses for all DLE employees who drive state or personal vehicles on official business shall be reviewed when the inventory is conducted. It is

the responsibility of the employee to initiate an update of the JUS 1444 form whenever the employee's assigned equipment changes. JUS 1444 forms shall be maintained by the property controller, TFC, or person in charge of equipment.

## **700.6.2 REGIONAL OFFICE/LABORATORY EQUIPMENT INVENTORY**

Each regional manager is responsible for ensuring that an equipment inventory is completed and documented annually. The inventory shall include all equipment maintained by that regional office/lab, including but not limited to IT equipment, furniture, investigative pool equipment, equipment on loan from other sources, and state-owned pool equipment. This inventory excludes employee-assigned equipment. The person conducting the inventory shall obtain a copy of the inventory list(s) and/or files, and shall physically inspect each item listed to ensure that the information is accurate. Inventory list(s) and/or files shall be updated upon completion of the inventory. The results of this inventory shall be documented by memorandum via the chain of command to the Bureau Director by the person who conducted the inventory. The memorandum shall include the date(s) of the inventory, the name of the individual who conducted the inventory, any discrepancies found during the inventory, and the steps taken to resolve any discrepancies.

Regional office and task force inventories shall also include all radio equipment, including mobile radios, portable radios, sirens, body wire receivers, base stations, scanners, spare batteries, and satellite phones. Radio equipment shall be listed separately from non-radio equipment on the inventory list(s). The property custodian shall forward a copy of the memorandum and annual radio equipment inventory list(s) to the RCU for verification.

## **700.6.3 TASK FORCE EQUIPMENT INVENTORY**

It is the responsibility of each TFC to ensure that an annual equipment inventory is completed and documented. The inventory shall include all state and non-state equipment, and shall be conducted in accordance with the guidelines set forth in § 700.6.2. The results of this inventory shall be documented by memorandum via the chain of command to the Bureau Director by the person(s) who conducted the inventory. The memorandum shall include the date(s) of the inventory, who conducted the inventory, any discrepancies found during the inventory, and the steps taken to resolve any discrepancies.

## **700.6.4 POOL EQUIPMENT SIGN-OUT LOG**

A sign-out log shall be maintained for all non-expendable state-owned equipment pool items. The log will include the DOJ decal number, a description of the item, the printed name and signature of the employee receiving the item, the date taken, expected date of return, actual date of return, and any comments. The log shall be retained for one calendar year from the date of activity.

## **700.6.5 ATTRACTIVE EXPENDABLES SIGN-OUT LOG**

A sign-out log shall be maintained for each office/lab's supply of attractive expendables. The log will include a description of the item(s), the printed name of the employee taking the item(s), the date, and the quantity taken. The log shall be maintained for a period of one calendar year from the date of activity.

## **700.6.6 ASSIGNED EQUIPMENT DURING EXTENDED ABSENCES**

If an employee goes on leave (i.e., military, maternity, etc.) or 4800 time for 30 days or more, all assigned equipment and credit cards, with the possible exception of employee credentials, duty weapon and cell phone, shall be collected by the employee's Assistant Chief or regional manager and reconciled against the employee's JUS 1444. The Assistant Chief or regional manager shall note on the employee's JUS 1444 the date the items were collected, sign the form, and provide a copy to the employee. The employee's equipment shall not be issued to other personnel, but shall be maintained separately so that it can be reissued to the employee upon his/her return.

An agent's duty weapon, credentials and cell phone may remain in the possession of the agent at the discretion of the Bureau Director, taking into consideration the nature of the leave, the length of the absence, and any physical limitations as they relate to the safety of the agent and the public. An agent whose duty weapon is subject to collection under this policy may request an extension of 14 days from the date he/she became aware that his/her absence would exceed 30 days. The purpose of this extension is to allow the agent time to purchase and/or qualify with an off-duty weapon before the agent surrenders his/her duty weapon. Any request for an extension shall be submitted in writing, via the chain of command, to the employee's Bureau Director.

At such time as the employee returns to full-duty status, his/her equipment and credit cards shall be reissued to him/her. A new JUS 1444 identifying all assigned equipment, including credentials and badges, shall be completed when the equipment is reissued. Exceptions to this policy require prior written approval by the appropriate Bureau Director.

## **700.7 MAINTENANCE**

It is the responsibility of regional management to ensure that all necessary maintenance and/or calibration is performed on non-expendable equipment as required by the manufacturer and to document that maintenance in the appropriate maintenance/repair log. An equipment maintenance/repair log that lists the decal number, serial number, name of the item, date the item was submitted for maintenance/repair, date the item was returned to service, and name of the person performing or arranging for the work shall be maintained for each piece of non-expendable equipment.

## 700.8 PROPERTY TRANSFER

Equipment may be transferred within the Department in accordance with this policy and DOJAM § 11241 or to another State agency in accordance with § 11242. Special conditions applicable to the transfer of IT and radio equipment are as follows:

- a. Contact the Technical Assistance Center (TAC) (by telephone at 1-866-775-4400 or by sending an email to TAC@doj.ca.gov) prior to relocating or loaning IT equipment.
  1. If the IT equipment is relocated within a unit or work area no paperwork is required.
  2. If the IT equipment is being transferred to another unit or location, a JUS 111 must be completed and forwarded to the DOJ Property Controller with a copy to the CJIS/HDC IT Support Unit.
  3. If the IT equipment is being loaned to another division, bureau or task force, a written agreement is required. The written agreement shall include the names of both the loaning and receiving units along with the make, model, serial number, and DOJ decal number of the equipment being loaned. The reason for the loan, date the loan will begin, and approximate date of return shall be clearly stated and agreed upon by both parties. The signed agreement shall be forwarded to the DLE IT Coordinator along with a Hawkins Data Center Service Request form (JUS 350A). The Coordinator shall forward copies of these documents to OPS.
- b. The RCU handles all transfers, both permanent and temporary, of radio equipment.
  1. A request to exchange a mobile radio or siren may be made by the DGS local area radio technician. The RCU will provide the necessary equipment.
  2. The RCU maintains an inventory of surplus radio equipment that can be used for temporary loans for emergency or special operational needs. A formal written request shall be submitted via the chain of command to the Office of the Chief.
  3. When an agent position becomes vacant, the portable radio equipment shall be returned to the RCU.
  4. Requests to permanently transfer radio equipment shall be submitted via the chain of command to the Office of the Chief. The transferring and receiving units shall comply with DOJAM § 11241. A transfer shall be considered incomplete if any of the items considered part of the radio equipment (i.e., microphones or control heads) are missing. The involved units assume responsibility for receiving and shipping all parts and equipment. Replacement costs for missing parts will be billed to the unit that shipped the equipment.

## **700.8.1 INTRA-DIVISION PROPERTY TRANSFER**

When property is transferred within the Division, an Internal Transfer of Location of Equipment form (JUS 111) is required. It is the responsibility of the transferring Property Controller, TFC or person in charge of equipment to ensure that the JUS 111 is completed and signed by both the transferring office and the receiving office personnel.

In the event that an agent position allocation is permanently transferred to another DLE facility, all equipment, including vehicle and radio, shall transfer with the position. Transfers of this nature between bureaus shall be negotiated on a case-by-case basis subject to final approval by the Bureau Directors.

## **700.8.2 INTRA-DIVISION EQUIPMENT LOAN**

In special circumstances, a transferring employee may be authorized to take credit cards and/or other equipment from the standard complement to his/her new assignment. These items shall be considered "loaned" to the receiving facility. Loans of this nature shall be requested by regional management and approved by the appropriate Bureau Director in advance and documented with a memorandum maintained in the equipment file. Monthly inquiries shall be initiated by the regional manager or designee until the loaned equipment and/or credit cards are returned, replaced, or appropriate paperwork is received to cancel the cards. The person making the inquiries shall sign and date the memorandum each month when he/she completes the inquiry.

## **700.9 PROPERTY SURVEY**

The only legal method to remove worn out, broken, lost, stolen, destroyed, obsolete, or surplus property from the Department's inventory is through the survey process outlined in DOJAM §§ 11250 and 11251. The survey process for vehicles is set forth in DOJAM § 112113.

Regional offices and task forces are not authorized to survey radio equipment. If regional management believes a radio equipment item may be subject to survey, the item shall be inspected by the RCU to determine the condition of the equipment and the cost-effectiveness of repair. If the RCU determines the radio equipment is irreparable or the cost of repair would be excessive given the life expectancy of the equipment, the RCU will coordinate the survey process. The RCU maintains documentation for surveyed radio equipment.

## **702 Personal Communication Devices**

### **702.1 PURPOSE AND SCOPE**

The use of Department-issued personal communication devices is subject to the Department's Telecommunications Systems and Services policy, found in DOJAM Section 6, Chapter 3 and Administrative Bulletin 10-11.

## **704 Vehicle Maintenance**

### **704.1 PURPOSE AND SCOPE**

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

Regional management shall ensure that individually assigned vehicles and pool vehicles are maintained in accordance with the requirements found on the Automobile Maintenance Record form (STD 271), in the Office of Fleet Administration (OFA) State Fleet Handbook, and in the DOJAM.

### **704.2 DEFECTIVE VEHICLES**

When a Department vehicle becomes inoperative or in need of repair that affects the safety of the vehicle, that vehicle shall be removed from service for repair. Proper documentation shall be promptly completed by the employee who first becomes aware of the defective condition, describing the correction needed. The paperwork shall be promptly forwarded to the employee responsible for that facility's vehicles so that he/she may arrange for repair.

#### **704.2.1 VEHICLE SURVEY PROCEDURES**

Vehicles may be surveyed if it is cost-effective to do so, but only with the approval of regional management and in accordance with the procedures detailed in DOJAM § 112113. The regional manager shall send a memorandum to the Division Vehicle Coordinator listing the vehicle's year, make, model, asset number, E number, license plate number, ending mileage, and the reason for survey. The Division Vehicle Coordinator will process the request. If the Department and the DGS Fleet Inspector approve the survey request, the Division Vehicle Coordinator shall forward the approved Property Survey Report form to the requesting office. The requesting office shall contact the RCU to arrange to have the communication equipment (radio/siren/alarm) removed from the vehicle. The requesting office must also remove the vehicle license plates and send them to the DOJ Vehicle Coordinator. Once the communication equipment and license plates have been removed, the vehicle shall be disposed of in accordance with DOJAM § 112113 and the OFA State Fleet Handbook.

## **706 Vehicle Use**

### **706.1 PURPOSE & SCOPE**

The Department utilizes state-owned motor vehicles in a variety of applications operated by Department personnel. In order to maintain a system of accountability and ensure state-owned vehicles are used appropriately, regulations relating to the use of these vehicles have been established. The term "state-owned" as used in this section also refers to any vehicle leased or rented by the state.

### **706.2 USE OF VEHICLES**

The use of state-owned vehicles by members of this division shall be in strict compliance with applicable state laws, rules, and regulations. In addition to this policy, individuals using Department vehicles shall adhere to all requirements included and incorporated by reference in DOJAM §§ 14500-14596.

Refer to the DOJAM for the Department's complete policies and procedures regarding vehicle home storage, monthly mileage logs, accidents, maintenance and repair.

#### **706.2.1 POOL VEHICLES**

Pool vehicles may be used only in the conduct of State business, pursuant to Government Code § 19993.1. Personnel assigned to routine scheduled field duties shall notify the appropriate staff member for assignment of a pool vehicle. Each office/lab shall maintain a log to be used to sign out pool vehicles. If the employee exchanges vehicles during the shift, the new vehicle number shall be entered into the log.

The property controller or other employee responsible for that facility's vehicles shall ensure the pool vehicle log indicating personnel assignments and vehicle numbers is completed as required and maintained for a minimum period of two years.

A Mileage Travel Log (STD 273) is stored in the glove box of each pool vehicle. When an employee uses a pool vehicle, he/she shall make a full entry for that trip on the STD 273 in accordance with DOJAM § 14536. At the end of each month, the property controller or other employee responsible for that facility's vehicles shall ensure that each pool vehicle's STD 273 is processed according to the procedure outlined in § 706.3. In the event a non-sworn pool vehicle has been driven 18 or more days in a month, he/she shall promptly forward a scanned copy of the STD 273 to the Division Vehicle Coordinator a scanned copy of the mileage log must be attached to the vehicle record in AMS.

#### **706.2.3 UNDERCOVER VEHICLES**

Unmarked units, if not assigned to an individual employee, shall not be used without first obtaining approval from the respective unit supervisor.

## **706.2.5 AUTHORIZED PASSENGERS**

Personnel operating Department-owned vehicles shall not permit persons other than State employees or persons required to be conveyed in the performance of duty or as otherwise authorized to ride as a passenger in their vehicle.

## **706.2.6 PARKING**

State-owned vehicles should be parked in their assigned stalls. Individually-assigned vehicles should be parked in a garage or private driveway, not on the street, while at the employee's residence. If a vehicle containing a shoulder weapon is parked at an employee's residence, the vehicle shall be parked and the shoulder weapon secured in accordance with Policy Manual § 432.9.

Personal and State equipment and other such items shall be locked in the trunk of the vehicle, the doors shall be kept locked, and the alarm system shall be activated at all times when the vehicle is unoccupied. Voyager cards shall not be left inside parked vehicles.

## **706.2.7 INSPECTIONS**

The interior of any vehicle that has been used to transport any person other than an employee should be inspected prior to placing another person in the vehicle and again after the person is removed. This is to ensure that unauthorized items have not been left in the vehicle.

## **706.2.8 USE BY OTHER LAW ENFORCEMENT AGENCIES**

The use of Department vehicles by members of other law enforcement agencies may be authorized by regional management when all of the following criteria are met:

- a. The use of the vehicle will be in conjunction with an investigation being conducted by the DOJ or a regional task force.
- b. The other agency has no vehicle available which will meet the needs of the investigation.
- c. The use of the vehicle will be under the direction of DOJ personnel.

Such utilization of the vehicle shall be limited to actual investigative activities. Use for routine administrative duties or work to home transportation is not authorized. Regional management shall ensure that all local agency drivers complete the state Monthly Travel Log (STD 273) and that the monthly mileage is entered into the AMS by the seventh day of each month in accordance with DOJAM § 14536. Gas and oil purchased with DOJ credit cards shall be purchased by DOJ personnel only.

In the event a non-DOJ operator is involved in a vehicle accident, regional management shall be notified and, when feasible, will respond to the scene. They shall ensure reporting of the accident in the prescribed manner.

Use of DOJ vehicles by other law enforcement agencies shall be kept to a minimum. Non-peace officers are prohibited from driving vehicles equipped with undercover plates, mobile radios, and/or sirens unless directed to do so by a SAC for specific purposes such as delivering the vehicle to a repair facility when the vehicle is "out of service" as an enforcement vehicle.

### **706.3 ASSIGNED VEHICLE AGREEMENT**

State-owned vehicles assigned to personnel for their use within their job assignment may be used to transport the employee to and from their residence for work-related purposes.

Vehicles may be individually assigned to DLE personnel who meet one of the following criteria:

- a. Special Agents, SASs and SACs with continuing field enforcement responsibilities directly relating to investigation of actual or suspected violations of the law.
- b. Sworn Assistant Bureau Directors and above.
- c. Personnel who can justify actual need for an individually assigned vehicle as established by the DOJAM § 14534.

The assignment of vehicles is at the discretion of the Chief. Assigned vehicles may be changed at any time and/or permission to take home a vehicle may be withdrawn at any time. Assigned vehicles remain with their respective regional offices/labs; when an employee transfers, the assigned vehicle shall be returned to the regional manager for reissuance.

Personnel with assigned vehicles shall maintain the vehicle's monthly STD 273 in accordance with DOJAM § 14536 and submit the completed STD 273 for supervisory review. The white copy of the completed STD 273 log shall be turned in to the property controller for processing no later than the fifth day of the month. The property controller or other individual responsible for that facility's vehicles shall enter the information from the STD 273 into AMS no later than the seventh day of the month.

#### **706.3.1 VEHICLES SUBJECT TO INSPECTION**

All State-owned vehicles are subject to inspection and or search at any time by a supervisor and no employee assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

### **706.4 SECURITY**

Employees may take home State-owned vehicles only with prior approval from their supervisor and shall meet the following criteria:

- a. The employee lives within 65 statute air miles (5,280 feet per mile) of his/her assigned office.
  1. If the employee's residence is outside the 65-mile radius from the assigned office, the vehicle shall be stored at his/her office location during off-duty hours.
  2. Any residence-to-office commute distance question or dispute shall be measured by the Office of the Chief in the straight-line method utilizing the DOJ automated aviation distance-measuring program or GPS longitude/latitude fixes of both locations.
  3. Exceptions to this requirement require prior written approval of the Bureau Director.
- b. Vehicles shall be locked when not attended.
- c. All firearms and kinetic impact weapons shall be removed from the interior of the vehicle and placed in the trunk or properly secured in the residence when the vehicle is not attended (refer to Policy Manual §§ 312 and 432 regarding safe storage of firearms at home).

When an employee is on vacation, leave, or out of the area in excess of one week, the vehicle shall be stored in a secure garage at the employee's residence or at the bureau facility.

#### **706.4.1 KEYS**

Personnel assigned a permanent vehicle shall be issued keys for their respective vehicle. The loss of any assigned key shall be promptly reported in writing through the employee's chain of command.

#### **706.6 MAINTENANCE**

- a. Each employee is responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicle.
- b. Employees shall make daily inspections of their assigned vehicle for service/maintenance requirements and damage.
- c. Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to employees under their command to ensure the vehicles are being maintained in accordance with policy.
- d. Routine maintenance and oil changes shall be done in accordance with the Automobile Maintenance Record form (STD 271).
  1. All maintenance will be coordinated by the property controller or other employee responsible for the facility's vehicles.

2. Vehicles requiring warranty service shall be taken to the nearest authorized dealer after receiving clearance from a supervisor.
3. Each year, during the annual review of the individually assigned equipment inventory and vehicle, the supervisor shall verify that the STD 271 for the assigned vehicle is current and that all required maintenance has been performed. The supervisor shall make a notation on the Individually Assigned Equipment Inventory form (JUS 1444) indicating that the vehicle maintenance log is up to date.

### **706.6.1 ACCESSORIES AND/OR MODIFICATIONS**

No modifications, additions or deletions of any equipment or accessories shall be made to the vehicle without written permission from the Bureau Director or designee.

### **706.6.2 RADIO EQUIPMENT REPAIR**

The Property Controller or person in charge of equipment shall coordinate the repair of mobile radio equipment, sirens, backflashes (rear warning lights) and vehicle alarm systems. A list of DGS Radio Maintenance Shops (RMS) shall be provided to the employee to whom the vehicle is assigned. The employee is responsible for making the appointment and bringing the vehicle to the RMS. The RMS determines whether the equipment can be repaired. If necessary, the RCU will provide replacement equipment to the RMS and the old equipment will be returned to the RCU.

The Property Controller or person in charge of equipment shall notify the RCU if the newly-installed equipment malfunctions and shall notify the Vehicle Coordinator if the vehicle is damaged during the installation.

Each Property Controller or person in charge of equipment shall maintain no more than five red lights for replacement purposes. When a red light is broken, a replacement red light shall be installed immediately and the broken red light shipped to the RCU. The RCU will repair the red light or recommend replacement if it cannot be repaired.

### **706.7 ACCIDENT DAMAGE, ABUSE, AND MISUSE**

DOJAM § 14590 et seq., SAM § 2430, and the OFA State Fleet Handbook set forth the procedures to be followed when an employee is involved in an accident.

The employee involved in the collision shall complete the State's vehicle accident forms (STD 270 and STD 274) using the vehicle's E number. If the employee is incapable, the supervisor shall complete the forms.

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, documented in memorandum format and forwarded to the supervisor.

An administrative investigation will 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.

## **706.8 TOLL ROAD USAGE**

Law enforcement vehicles are not routinely exempted from incurring toll road charges. Pursuant to the nonrevenue policy of the toll roads, law enforcement agencies responding to an emergency or incident on the toll roads, while on duty, are exempt from paying the toll. Commuting, or returning after an emergency does not qualify for this exemption and personnel using State owned vehicles are subject to the toll charge. To avoid unnecessary toll road violation charges, all employees operating a State owned vehicle upon the toll road shall adhere to the following:

- a. All employees operating a State-owned vehicle for any reason other than an initial response to an emergency shall stop and pay the appropriate toll charge. Employees may submit for reimbursement from the State for any toll fees.
- b. All employees passing through the toll plaza or booth during a response to an emergency shall draft a memo to their respective SAC within five working days explaining the circumstances.

## **706.9 TRAFFIC CITATIONS**

Any employee who receives a driving or parking citation while operating a State vehicle shall personally ensure that a proper disposition is made as soon as possible. The driver shall notify his/her supervisor no later than 24 hours after receiving the citation.

The supervisor shall notify his/her Bureau Director via the chain of command no later than 24 hours after the supervisor was notified about the traffic citation. The Bureau Director will notify the Deputy or Assistant Chief as soon as possible, but no later than 24 hours after he/she is notified.

The employee shall personally pay the fine or appear in person at the designated place, or request that an official letter of explanation be written for regional management's signature and directed to the proper agency.

When the Division Vehicle Coordinator receives a letter from the DMV indicating that a citation has been issued and a traffic bureau is seeking to identify an undercover license, the Division Vehicle Coordinator shall send a memorandum to the driver of that vehicle. The driver shall be required to submit a memorandum to his/her manager, with a copy to the Division Vehicle Coordinator, explaining the reason the citation was issued and the reason it was not properly cleared. This memorandum shall also document the final disposition of the citation.

## **706.10 VEHICLE COORDINATOR**

The Division Vehicle Coordinator in the Office of the Chief oversees the Division's vehicle fleet. In addition, regional management shall appoint a property controller or other employee to be responsible for the following:

- a. Maintaining the regional office/lab vehicle inventory.
- b. Controlling and ensuring the maintenance of all pool, surveillance, and specialized vehicles.
- c. Coordinating vehicle surveys with the Division Vehicle Coordinator when needed.
- d. Maintaining all required files relating to regional office/lab vehicles.
- e. Providing input to bureau headquarters and the Division Vehicle Coordinator regarding vehicle purchases.

## 707 Exemplar Firearms

### 707.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for the acquisition, handling, storage and destruction of exemplar firearms by the BOF. Exemplar firearms may be fired, examined, compared to unidentified firearms, and used by BOF agents in reverse sting operations. This policy does not apply to BFS exemplars, which are maintained in accordance with the BFS Quality Management System.

#### 707.1.1 DEFINITIONS

The following definitions are provided for the purposes of this policy:

**Custodian** - A BOF SAS chosen to maintain the integrity of an exemplar collection.

**Exemplar** - A firearm that is maintained in a reference collection for educational and investigative purposes.

**Firearm** - Refers, in this policy only, to any firearm or firearm accessory, legal or clandestine, original or improvised.

### 707.2 POLICY

The BOF is authorized to establish collections of exemplars that may be useful and relevant to the mission of the BOF.

The custodian of an exemplar collection may expand the collection by retaining firearms that are no longer needed as evidence, received from other law enforcement agencies, or voluntarily surrendered by members of the public. If a firearm was seized pursuant to a court order, the custodian must obtain a court order to retain the firearm as an exemplar. Exemplars should be chosen based upon training needs and/or the individual firearm's unique characteristic(s).

When a firearm is added to the exemplar collection, the custodian shall update AFS to reflect that the firearm has been retained for official use, assign a unique identification number, and attach a completed Evidence Identification Tag to the exemplar. As exemplars may be used in reverse sting operations, they should not be visibly or permanently marked in any way; rather, the identification number and any other markings or labels should be added to the Evidence Identification Tag.

The custodian shall maintain a binder or other file containing a photograph, AFS printout, identification number, and a copy of the court order (if any) for each exemplar in the collection. When an exemplar is destroyed, AFS shall be updated to reflect the destruction and a copy of the destruction order shall be placed in the file.

In addition, the custodian shall maintain a paper or electronic log which shall include, but not be limited to, as much of the following information as is available for each exemplar:

- a. Identification number
- b. Make
- c. Model
- d. Serial number, if applicable
- e. Originating case number
- f. Location in the vault
- g. Date acquired
- h. Date destroyed

### **707.3 STORAGE AND SECURITY**

Exemplars shall be stored in a vault that meets the security criteria detailed in Policy Manual § 379.8.4. Access to the vault shall be limited to the custodian and his/her SAC.

### **707.4 REMOVAL FROM THE VAULT**

A sign-out log shall be kept in the exemplar vault. The following information is required whenever an exemplar is removed from the building and/or the possession of the custodian:

- a. Date removed
- b. Date returned
- c. Name and title of the person removing the exemplar
- d. The exemplar's make, model and assigned identification number

Before an exemplar may be removed from the vault for use in a reverse sting operation, the SAC's written approval must be obtained by the agent(s) wishing to use the exemplar and provided to the custodian.

### **707.5 INVENTORY**

The regional manager is responsible for ensuring that an inventory of the exemplar collection is conducted annually. This may be incorporated into the annual equipment inventory required by Policy Manual § 700.6.2. If the exemplar inventory is conducted separately, the results shall be documented in a memorandum submitted, via the chain of command, to the Bureau Director by

the person who conducted the inventory. The memorandum shall include the date(s) of the inventory, the name of the individual who conducted the inventory, any discrepancies found during the inventory, and the steps taken to resolve any discrepancies.

## 802 Communication Operations

### 802.1 PURPOSE AND SCOPE

The basic function of the communications system is to satisfy the immediate information needs of the law enforcement agency in the course of its normal daily activities and during emergencies. The latter situation places the greatest demands upon the communications system and tests the capability of the system to fulfill its functions. Measures and standards of performance are necessary to assess the effectiveness with which any department, large or small, uses available information technology in fulfillment of its missions.

#### 802.1.1 FCC COMPLIANCE

California Department of Justice radio operations shall be conducted in accordance with Federal Communications Commission (FCC) procedures and guidelines.

#### 802.1.2 RESPONSIBILITY

The Radio Communications Unit (RCU) establishes purchasing standards and maintenance policies for, provides assistance with, and tracks all DLE radio equipment. "Radio equipment" is any device that must comply with Federal Communications Commission specifications and/or emits radio frequency energy. This includes, but is not limited to: portable radios, mobile radios, scanners, body wire receivers, base stations, repeaters, consoles, satellite phones, vehicle tracking transmitters, specialized video equipment, and any accessory that is integrated or interfaced with the above mentioned radio equipment. Accessories include, but are not limited to portable radio batteries, antennas, battery analyzers, siren systems, emergency warning light systems, undercover audio systems, radio control switch boxes, vehicle alarm systems, and hands-free cell phone kits.

### 802.3 RADIO COMMUNICATIONS

Operations are more efficient and officer safety is enhanced when dispatchers, supervisors, and fellow agents know the status of agents, their locations and the nature of cases.

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

### **802.3.2 UNIT DESIGNATOR CUSTODIAN**

The RCU shall be the custodian of the DOJ unit designator database and is responsible for:

- Ensuring the unit designator database is kept current.
- Disseminating the current list to the DOJ Command Center and other appropriate DOJ personnel.

The Unit Designator Custodian is responsible for:

- Issuing unit designators to sworn personnel.
- Maintaining the unit designator list for their specific regional office.
- Submitting a current unit designator list, via e-mail, to the RCU by the 5th of each month.

## **802.4 BASE STATION RADIO INSTALLATION**

The RCU shall be informed during the planning stages of any new facilities that will require a base station radio (regional offices, task forces, and regional laboratories). The RCU requires at least six months prior to the planned operational date of the facility to accomplish the following:

- a. Obtain a Federal Communications Commission license for the radio site.
- b. Ensure the lease agreement permits the installation of a radio antenna on the roof of the facility.
- c. Obtain a floor plan of the facility showing the location of radio operator's desk.
- d. Provide DGS sufficient time to engineer and install the radio system.

## **802.5 PORTABLE RADIO REPAIR**

The Property Controller or person in charge of equipment shall coordinate the repair of portable radio equipment after contacting the RCU to determine what actions, if any, are required.

- a. The entire radio must be shipped to the RCU for:
  1. Erroneous display messages
  2. Loose battery bracket
  3. Weak or no transmission or reception
  4. Broken radio case
  5. Programming problems
  6. Reassignment of radio to another DLE Facility
- b. The radio need not be shipped to the RCU for:
  1. Broken antenna
  2. Lapel microphone and/or earphone malfunctions

3. Reassignment of radio within the same DLE facility
4. Battery problems, unless the battery:
  - a. No longer holds a charge
  - b. Is overheating
  - c. Case is broken

The RCU coordinates repair and tracking of portable batteries and/or accessories. If requested, the RCU will supply a loaner radio, if one is available, to the DLE facility to be used while the assigned radio is being repaired.

## 804 Property and Evidence

### 804.1 PURPOSE AND SCOPE

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

### 804.2 DEFINITIONS

**Property** - Includes all items of evidence, items taken for safekeeping and found property.

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

**Safekeeping** - Includes the following types of property:

- Property obtained by the Department for safekeeping such as a firearm.
- Personal property of an arrestee not taken as evidence.
- Property taken for safekeeping under authority of a law (e.g., Welfare and Institutions Code § 5150 (mentally ill persons)).

**Found Property** - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted. This type of property shall be turned over to the local law enforcement agency having jurisdiction in the area.

**Evidence Custodian** - The Property Controller, Special Agent, or task force agent responsible for recording and storing evidence seized by agents of a regional office or task force, including chemical and drug samples, money, jewelry, and other easily converted items of value. The SAC/TFC of every regional office and task force shall designate one Evidence Custodian and one Alternate Evidence Custodian (Alternate). With the exception of Property Controllers, probationary employees shall not be assigned as Evidence Custodians or Alternates.

**Evidence Tracking Program** - The program used by the regional office to log and track evidence. For DLE personnel, this will be either the Evidence Automated Tracking System (EATS) or the CIMS Evidence Tracking Application. BMFEA personnel utilize the BMFEA Property Report form (MCF 015), which is scanned into ProLaw when completed; no other tracking program is used.

## 804.2.1 PROPERTY RECEIPT

The DLE Property Receipt form (DLE 234) is available on the Intranet. The BMFEA Property Report carbon form (MCF 015) is available at each regional office. The pink copy of the MCF 015 serves as the property receipt.

### a. Seized Property:

1. When property is seized, a property receipt (DLE 234 or MCF 015) must be completed, signed, and a copy given to the person from whom the property was taken or in whose possession the property was found. The receipt shall include the investigation/matter number, date of activity, name of individual from whom the property was seized, the address of that individual or the location from which the property was seized, the evidence item number, a complete description of the property (including serial number(s)), exact location where found, and the printed name of the receiver. In addition, the receiver's signature, the printed name of the witness and the witness' signature are required on the DLE 234.
2. If the property was taken from a vacant residence or otherwise unoccupied structure, the copy of the property receipt shall be posted in plain sight on or near an entryway to the structure.
3. At outdoor sites, such as rural clandestine laboratory or marijuana grow sites, the property receipt shall be posted on a prominent landmark such as a tree or wooden post at or near the access point to the site.

### b. Released or Transferred Evidence:

1. A completed property receipt, as described above, is required every time evidence seized by DLE or BMFEA personnel is released to another agency or transferred from the custody of any DLE or BMFEA facility or task force office. This includes circumstances when evidence used at a hearing is retained by the court after the hearing is concluded.
2. A property receipt is also required when transferring evidence to a BFS laboratory or any other criminalistics laboratory for analysis. It is the responsibility of the releasing individual to furnish a copy of the property receipt to the Evidence Custodian. The Evidence Custodian shall enter the information into the evidence tracking program and the Chain of Custody sheets.

### c. Distribution:

1. DLE 234
  - a. Each original DLE 234 shall be placed in the applicable investigation file.

- b. A copy of the DLE 234 for all released or transferred evidence shall be given to the Evidence Custodian for placement in the Released or Transferred Evidence File.
  - c. There are no exceptions to this policy.
2. MCF 015
- a. The original (white) copy is maintained in the Evidence Control Log in the evidence room. The reverse side is printed with the chain of custody. Make a copy of the front page of the white copy and file with Return to Search Warrant as a complete property seizure inventory.
  - b. The goldenrod carbon copy remains with the evidence or in the evidence folder.
  - c. The pink carbon copy is used as the property receipt at the seizure site.

### **804.3 PROPERTY HANDLING**

Each bureau is responsible for the storage of all evidence seized as a result of its investigations. Each regional office shall have a secure evidence vault, defined as a space that meets the requirements of Policy Manual § 379.8.4.

Task forces that have custodial responsibility for their evidence, either on- or off-site, shall comply with the requirements of this section. However, task forces may store evidence with member agencies provided the agreement with the member agency is included in the MOU. Upon accepting custody of the evidence, the member agency assumes responsibility for the security and documentation of the evidence.

At the earliest practical time, but no later than five working days after its seizure, all evidence shall be submitted to the evidence custodian for placement in the evidence vault. In the absence of the evidence custodian, the evidence shall be placed in a secure temporary evidence locker.

Any employee who first comes into possession of any property, shall retain such property in his/her possession until it is properly tagged and placed in the designated temporary evidence locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence. Refer to Policy Manual § 804.3.4 for alternative storage locations.

This section prohibits the storing of evidence, monies, firearms, found property, or seized assets in desks, vehicles, personal lockers, etc.

Where ownership can be established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. The property form must be completed to document the release of property not booked and the owner shall sign the form acknowledging receipt of the item(s).

All documents requiring signatures shall include the individual's printed name and date. No initials shall be used unless specifically authorized.

Each item of evidence shall be assigned an individual evidence item number in CIMS. The number shall consist of the following:

- A three-digit number which reflects the specific report number in which the evidence is being documented.
- A second number set (maximum 3 digits) which identifies the specific evidence item number. These numbers shall be sequential.
- An optional third column is available which will accept free text data. This field is limited to three alpha or numeric characters. If nothing is entered in the third column, this will remain blank in the CIMS report. For example, evidence item number 020-001-s would be the first item of evidence which was documented in Investigation Report number 20.

Evidence shall be stored and handled as described in this section or in accordance with the Clandestine Laboratory Manual of Instruction and Procedure. The Evidence Custodian shall not accept any evidence item which has not been properly marked, packaged, and sealed as required by this section.

### **804.3.1 PROPERTY PROCEDURE**

Evidence should be packaged and stored as soon as practical. If the evidence custodian is not available or there is not enough time to put the evidence into the evidence vault before going off duty, the submitting employee shall store the evidence in a Temporary Evidence Locker. If the evidence custodian is available to enter evidence into the vault and time allows, the following guidelines shall be observed:

- a. Complete the property form describing each item of property separately, listing all serial numbers, owner's name, finder's name, and other identifying information or markings.
- b. Mark each item of evidence with the seizing employee's initials and the date seized using the appropriate method so as not to deface or damage the value of the property.
- c. Complete an evidence/property label and attach it to each package or envelope in which the property is stored.
- d. The original property form shall be submitted with the case report. A copy shall be given to the Evidence Custodian, who will verify that all evidence has been received before the form is placed with the property in the evidence vault.

### **804.3.2 NARCOTICS AND DANGEROUS DRUGS**

All narcotics and dangerous drugs shall be packaged separately. Paraphernalia as defined by Health & Safety Code § 11364 shall also be packaged separately.

The agent seizing the narcotics and/or dangerous drugs shall either place them in the designated locker or submit them to the Evidence Custodian to be placed in the regional office evidence vault.

All chemical samples taken at clandestine lab sites by laboratory personnel shall be issued individual evidence item numbers, which will be detailed in the evidence section of the appropriate investigative report. It is the responsibility of the reporting agent to physically provide the Evidence Custodian or Alternate with a copy of the approved investigative report which details the seizure and movement of the chemical samples taken at the clandestine lab site. The Evidence Custodian or Alternate shall utilize the item numbers and the description listed in the evidence section of the report to make the appropriate entries into the evidence tracking program.

### **804.3.3 CHEMICALS AND CONTAMINATED OR EXPLOSIVE EVIDENCE**

Chemicals, including samples, and contaminated or explosive evidence must be stored in accordance with hazardous materials laws and local fire and health regulations. These types of evidence shall not be stored in a temporary evidence locker or the evidence vault. Chemicals may be stored for no more than two working days in a chemical locker approved by the Occupational Safety and Health Administration (OSHA) and the National Fire Protection Association (NFPA) before being transported to a DLE-contracted permanent chemical storage facility. These items shall be listed in the appropriate evidence tracking system. Offices requiring an exception to the two working days retention requirement must obtain permission in writing from the office of the respective Bureau Director.

The Bomb Squad will be called to handle situations involving explosive devices and all such devices will be released to them for disposal.

### **804.3.4 BIOLOGICAL EVIDENCE**

A regional office or task force may occasionally need to store biological evidence (i.e. blood, saliva, semen, bone, body tissue, etc.) on their own premises. These evidentiary items should be properly packaged before they are accepted by the regional office or task force for storage.

All biological materials, and all items that may have been contaminated by biological materials, should be treated as biohazardous material and handled with universal precautions. Employees are expected to comply with the safety standards found in 8 CCR § 5193, which regulates occupational handling and storage of blood and other potentially infectious materials.

The laboratory should be consulted for guidance on appropriate storage conditions. The preferred storage condition for evidence with dried biological stains is frozen; however, there may be circumstances which warrant different storage conditions (e.g. size or condition of the item, circumstances of the case, etc.). Evidence with wet biological stains should be dried first, then properly packaged and frozen. Regional offices and task forces that store biological evidence shall have a secured, locked refrigerator and/or freezer, as needed, in the evidence vault that is designated for the sole purpose of storing biological evidence. Any refrigerator or freezer used to store biological evidence, and all evidence containers stored therein, shall be clearly labeled in accordance with 8 CCR § 5193(g)(1)(A).

Biological evidence that is secured in connection with a case must be retained, in a condition suitable for DNA testing, for as long as any person is incarcerated in connection with that case or until the conditions for early disposal set forth in Penal Code § 1417.9 are met. The BFS laboratory should be consulted to determine when biological evidence can be destroyed, and the evidence shall be transferred to the laboratory for destruction.

Refer to the BFS Physical Evidence Bulletins for biological evidence for additional information regarding the collection, packaging and storage of biological evidence.

### **804.3.5 STORAGE LOCATIONS**

a. Temporary Evidence Lockers:

1. The submitting agent shall ensure that evidence is not kept in a temporary evidence locker for more than 72 hours. The SAC/TFC may extend this requirement to a maximum of five (5) days. This shall be documented on the Temporary Evidence Locker Tracking Log (DLE 210).
2. The submitting agent shall complete a DLE 210 for each investigation in which evidence is stored in a temporary evidence locker. The submitting agent shall sign each log entry. Evidence from the previous investigation shall be transferred to the evidence custodian before storing evidence from another investigation. The DLE 210 shall be maintained on the exterior of the temporary evidence locker while the locker is in use and shall include the following information:
  - a. Investigation number and name.
  - b. Submitting agent's name.
  - c. Evidence item number(s) and description.
  - d. Dates/times put in/taken out of locker.
  - e. Submitting agent's signature.
  - f. SAC's signature for time extension, if applicable.

- g. Date given to evidence custodian and his/her signature. When the evidence is submitted to the evidence custodian, he/she shall file the DLE 210 in the Temporary Evidence Locker Tracking Log file.
3. The temporary evidence locker key shall be retained by the submitting agent until he/she and the evidence custodian jointly review the evidence. Never, under any circumstances, shall the evidence custodian have a key to a temporary evidence locker. The master key(s) shall be kept in the SAC/TFC's safe for emergency access.
  4. The evidence custodian shall enter all information into the evidence tracking program and print a copy of the evidence log and chain of custody sheet. The evidence custodian shall place the evidence into the evidence vault.
  5. The evidence custodian is not responsible for evidence placed in a temporary evidence locker. His/her responsibility begins when the evidence is placed in a container in accordance with Policy Manual § 804.3.4(b) and accepted for placement in the evidence vault.
  6. The evidence custodian shall not accept any evidence item which has not been properly marked, packaged, and sealed as required by this section.
- b. Evidence Vault:
1. Each regional office shall have a secure evidence vault as detailed in Policy Manual § 379.8.4.
  2. If a task force does not have such a vault, an outside storage locker may be used. The outside storage locker shall be equipped with an alarm system and security cameras that allow a complete view of the locker.
  3. Evidence vaults and outside storage lockers shall be accessed using the two-person access rule described in Policy Manual § 379.1.1.
- c. SAC/TFC Safe:
1. Small property items such as jewelry, artwork and other items that are easily converted to currency may be stored in the regional/task force office SAC/TFC's safe.
    - a. These items shall be documented in the safe log, photographed, and entered into the evidence tracking program.
    - b. The safe log shall be a bound or electronic ledger that reflects the date seized, date received, from whom received, investigation number, investigation title/defendant's name, evidence item number, description/amount, date released by

the SAC/TFC, name of the recipient, and disposition. If the ledger is maintained in an electronic format, a printout of the most current version shall be maintained in the safe.

### **804.3.6 RECOVERED INVESTIGATIVE FUNDS**

The unsealed container containing the recovered investigative funds shall be submitted to the SAC or the TFC accompanied by a Recovered Money Receipt (RMR) (JUS 806). Under no circumstances shall funds be placed in an evidence container with other types of evidence.

Upon receipt of the funds, the SAC or TFC will count the funds, check the serial numbers of the funds against the list of pre-recorded serial numbers or photocopies, seal the evidence container, and sign and date the container in the presence of the submitting agent.

The RMR shall be signed by the SAC or TFC and copies shall be distributed in accordance with the instructions on the RMR. The funds shall be maintained in the SAC's or TFC's safe. An entry shall be made listing the recovered funds in the Safe Log, the evidence tracking program, and the RMR log. Details regarding the seizure and submission of the funds shall be included in the required DLE or task force investigation report. When the investigation is adjudicated, the funds shall be disposed of in accordance with instructions printed on the back of the RMR.

When investigative funds from any other law enforcement agency are recovered during an investigation, the seizing agent shall adhere to the above procedures with the following exceptions:

- a. The other agency will be notified in addition to the SAC or TFC.
- b. The serial numbers of the seized funds will be checked against the other agency's list of pre-recorded serial numbers.
- c. The funds shall be maintained in the SAC's or TFC's safe only until the funds can be returned to the appropriate agency pursuant to applicable laws.
- d. When the funds are returned to the other agency, a DLE 234 shall be completed, signed by the receiving person, and distributed as required by Policy Manual § 804.2.1.

### **804.4 PACKAGING OF PROPERTY**

Certain items require special consideration and shall be packaged separately as follows:

- a. Narcotics and dangerous drugs
- b. Firearms (ensure they are unloaded and packaged separately from ammunition)
- c. Property with more than one known owner

- d. Paraphernalia as described in Health & Safety Code § 11364 and Business and Profession Code § 4140
- e. Fireworks
- f. Contraband

#### **804.4.1 PACKAGING CONTAINER**

Employees shall package all property, except narcotics and dangerous drugs, in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles. Paper evidence shall be packaged in clear, sealable plastic evidence bags issued by the Department.

An evidence label shall be securely attached to the outside of all items or group of items packaged together. In most cases, a DLE-issued, self-adhesive, pre-formatted label (produced by the Office of State Publishing) should be affixed to the container or item. Items such as firearms, large scales, computers, appliances, suitcases, etc. that do not fit into standard containers shall have a fully completed Evidence Identification Tag (BNE 1052) or label affixed to them. The tag/label shall be affixed so it can be easily read.

The following information shall be included on each evidence container or label:

- Investigation number
- Name of case agent
- Name of subject(s)
- Name of submitting agent
- Date of seizure
- Location/address of seizure
- County of jurisdiction
- Type of seizure (search warrant or no-search warrant)
- Evidence item numbers
- Detailed description of evidence
- Chain of custody
- Date given to evidence custodian

Task forces that book evidence into allied/member agencies shall follow that agency's evidence procedures.

## **804.4.2 PACKAGING CONTROLLED SUBSTANCES**

The agent seizing narcotics and dangerous drugs shall retain such property in their possession until it is properly weighed, packaged, labeled, and placed in the designated evidence locker. Prior to packaging and if the quantity allows, a presumptive test should be made on all suspected narcotics. If conducted, the results of this test shall be included in the agent's report.

Controlled substances, with the exception of marijuana, shall be sealed in plastic, Kapak-type bags prior to being stored in evidence containers. Marijuana shall be packaged and sealed in paper envelopes or bags of appropriate size. Narcotics and dangerous drugs shall not be packaged with other property. A completed evidence label shall be attached to the outside of the container. The chain of evidence shall be recorded on this label.

## **804.4.3 FIREARMS**

All firearms shall be unloaded prior to being submitted to the Evidence Custodian. It is the responsibility of both the submitting agent and the Evidence Custodian to ensure that the firearm is unloaded and the zip-tie device is used to render the firearm inoperable.

Any ammunition seized with the firearm shall be placed in a separate container and labeled in compliance with Policy Manual § 804.4.1. The location of the ammunition shall be noted in part 12 (Comments) of the Evidence Identification Tag (BNE 1052) affixed to the source firearm. Each container of ammunition shall have a fully completed, DLE-issued, self-adhesive, pre-formatted label affixed to it. The label shall identify the location of the source firearm. The ammunition container shall be clearly marked as such and stored in a cool, dry location. The Evidence Custodian shall place the unloaded firearm and ammunition in the firearms portion of the evidence vault.

- a. Identification, Tagging and CLETS/NCIC Checks:
  1. Firearms which are seized shall be marked for identification and have a fully completed Evidence Identification Tag (BNE 1052) attached. The firearms shall be checked by the case agent through CLETS and NCIC for status. If a firearm is found to be stolen, this information should be indicated in part 12 (Comments) of the BNE 1052 and entered into the appropriate automated system noting the reporting agency's name and investigation number.
  2. The agent running the CLETS/NCIC check will note on the BNE 1052 that a CLETS/NCIC check was made and the results of that check. The name of the person who conducted the check and the date of the check should be indicated in part 12 (Comments) of the BNE 1052. The status of the seized weapon(s) shall be included in the investigation report, either in the details or in the evidence list. A copy of the

CLETS/NCIC printout shall be given to the Evidence Custodian who shall write the investigation number and the assigned evidence item number on the copy, and place the printout in the Firearm NCIC/CLETS/AFS File. The case agent shall place the original printout in the investigation file.

3. The evidence custodian shall run another CLETS/NCIC status check of the firearm prior to its disposal to determine if the firearm was reported stolen subsequent to its seizure. The results of this check shall be indicated in part 12 (Comments) of the BNE 1052, along with the date of the check, and the name of the person who performed the check. The original copy of this CLETS/NCIC printout shall be placed in the investigation file and a copy retained by the Evidence Custodian for placement in the Firearm NCIC/CLETS/AFS File.

b. Automated Systems Data Entry:

1. All seized firearms shall be entered in the CLETS AFS as "seized." Any seized firearm identified as stolen shall be entered in CLETS AFS as "located." Copies of the CLETS printout and the agency notification shall be placed in the investigation file and copies given to the Evidence Custodian for placement in the Firearm NCIC/CLETS/AFS File.
2. Evidence custodians shall enter the firearms information into the evidence tracking program, indexing types of weapons and serial numbers and indicating whether the firearms were stolen.

c. Local Agency Notification:

1. The case agent will ensure that the reporting agency is notified, by letter or teletype, that the stolen firearm has been recovered. The notification shall include the name of the case agent, investigation number, evidence item number, date of seizure, and a contact telephone number.

## **804.4.5 DISPOSITION OF SEIZED FIREARMS**

Seized firearms shall not be sold or traded. Seized firearms must be returned to the rightful owner or designee, destroyed, or retained for official use by the DLE. This policy also applies to weapons seized pursuant to asset forfeiture. When seized firearms are no longer required as evidence, and upon receipt of a court order in the case of any firearm(s) that were seized pursuant to a court order, regional management shall ensure that the following steps are taken:

- a. If the firearm was reported stolen, return it to the reporting agency. The Evidence Control Log and chain of custody sheets shall note the agency receiving the firearm(s) as well as the date and time of such delivery. This notation shall also include the name, title, and employing agency of the person receiving the item(s). Upon delivery, a DLE 234 shall be

prepared and signed. The DLE 234 shall be handled as required by Policy Manual § 804.8.

- b. If the seized firearm is personal property, comply with Policy Manual § 804.4.6, or destroy the firearm in compliance with Policy Manual § 804.5.4 if it cannot be returned.
- c. Dispose of firearms at least twice annually or more frequently if needed to decrease the inventory of firearms. The Evidence Control Log and Chain of Custody sheets shall be updated with the date of destruction, stamped "destroyed," and the entry shall be signed by the Evidence Custodian.
- d. If the firearm meets the requirements of Policy Manual § 312.2.1, the firearm may be retained by DLE. If so, the requesting regional manager or DLE Firearms Officer shall comply with Policy Manual § 700.5.1. The original court order, if any, shall be placed in the investigation file and a copy of the court order given to the Evidence Custodian for placement in the evidence vault file.
- e. All destroyed or retained firearms shall be entered accordingly into the CLETS AFS system by the Evidence Custodian. A copy of the CLETS AFS printout showing this information shall be placed in the investigation file and a copy retained by the Evidence Custodian for placement in the Firearm NCIC/CLETS/AFS file.

#### **804.4.6 RETURN OF SEIZED FIREARMS TO PRIVATE INDIVIDUALS**

When a private individual requests the return of a seized firearm, the SAC or TFC shall ensure the following procedures are implemented prior to the release of the firearm:

- a. The status of the firearm(s) shall be checked as required by Policy Manual § 804.4.3.
- b. The requestor shall be required to present a court order and documentation of ownership (i.e., sales receipt, bill of sale, notarized document relinquishing ownership of the firearm to him/her, etc.) that supports his/her claim to the firearm.
- c. The firearm shall not be released unless the requestor has been cleared by the BOF. However, it is not necessary to obtain a clearance from the BOF to deny the return of a firearm if there is confirmed information that the requestor is prohibited from possessing a firearm. Letters issued by the BOF notifying persons they are prohibited from possessing firearms will not have the gold Attorney General seal affixed to the face of the denial letter. The BOF will send copies of the prohibition letter to custodial agencies to retain in case files.
- d. The requestor shall be directed to contact the BOF for an eligibility check. Instructions and forms for obtaining a check can be obtained from the BOF web site: <http://ag.ca.gov/firearms/>. After completing its check, the BOF will send the requestor a letter that states whether any information has been found that prohibits him/her from possessing a firearm.

- e. If the BOF finds that the requestor is prohibited from possessing a firearm, the firearm shall not be released to the requestor. When the firearm cannot be returned, the firearm shall be disposed of as required by Policy Manual § 804.5.2 or 804.4.4.
- f. If the requestor is not prohibited from possessing a firearm and no other information is developed prohibiting return of the firearm, the firearm may be released to the requestor. This shall not occur until the requestor submits the original copy of the BOF letter affixed with the gold Attorney General seal, required court order, and documentation of ownership. The requestor shall also be required to show a valid identification (with photograph) of which a copy shall be made. A DLE 234 shall be completed, signed by the releasing DLE employee, a DLE witness, and the person receiving the firearm. The original DLE 234 and the original BOF letter with the gold seal, court order, documentation of ownership and identification shall be placed in the investigation file. Copies of these documents shall also be given to the Evidence Custodian who shall place them in the Evidence Release File and update the evidence tracking program and chain of custody.

#### **804.4.7 DISPOSITION OF STOLEN PROPERTY**

When agents, working with local law enforcement agencies, find property which has been reported stolen, the property shall be seized by the local law enforcement agency unless the property is evidence in support of an investigation. If no local agency is present and the property is seized by an agent, the property shall be treated as evidence and handled in compliance with this section.

- a. A CLETS "locate" entry will be made, the original printout placed in the investigation file, and a copy given to the Evidence Custodian for placement in the evidence vault file.
- b. It is the responsibility of the case agent to ensure that the agency that reported the theft is notified, by letter or teletype, of the recovered property. The notification shall include the name of the case agent, investigation number, evidence item number, date of seizure, a detailed description of the property, and a contact telephone number.
- c. Stolen firearms shall be released only in compliance with Policy Manual § 804.4.5. Unless the property is to be used for prosecution of a DOJ investigation, the property must be released to the reporting agency or rightful owner as soon as possible. If the property is to be used for the prosecution of a DOJ investigation, upon adjudication of the investigation, the property shall immediately be released to the reporting agency or owner. In either situation, appropriate entries shall be made in the evidence tracking program and on the chain of custody sheets. The DLE 234 shall also be obtained from the receiving agencies or individuals. The DLE 234 shall be handled as required by Policy Manual § 804.8.

## **804.4.8 DISPOSITION OF CHEMICAL/PRECURSOR EVIDENCE**

Chemical or precursor evidence shall be disposed of by a licensed hazardous waste hauler and in accordance with the Clandestine Laboratory Manual of Instruction and Procedure. If the chemical or precursor evidence was obtained through a search warrant, then a court order for the destruction of those seized chemicals or precursors must be obtained prior to destruction. Within 30 days of the destruction, the case agent will file an affidavit with the court of jurisdiction as required by Health and Safety Code § 11479.5.

## **804.4.9 CONTROLLED SUBSTANCES FOR TRAINING**

Pursuant to Health and Safety Code § 11367.5(a), the BI, with the prior approval of the Bureau Director, may provide controlled substances to law enforcement agencies or regional office personnel for training purposes; however, the BI shall not provide controlled substances to civilian drug detection trainers. SACs who wish to maintain a stock of controlled substances for training purposes for use by either the regional office or by law enforcement agencies shall first submit a request in writing to the Bureau Director. The request shall identify the type and specific amount/weight of each controlled substance to be placed into the office "training stock." All weights related to Controlled Substances for Training shall be recorded as net weights. Hazardous laboratory chemicals and hazardous precursors shall not be approved for use as "training stock."

- a. Only after written approval of the Bureau Director may the SAC, with the appropriate court order(s), move the requested controlled substances into the office training stock. The movement of the controlled substances from evidence shall be documented on the chain of custody sheets and an entry shall be made in the evidence tracking program or the bound evidence log where appropriate. The controlled substance training stock shall be stored in the regional office evidence vault, separate from all other evidence. The Evidence Custodian shall maintain a Controlled Substances for Training file that contains documents relating to the training stock. This includes DLE 234, court orders relating to controlled substances authorized for training purposes, copies of the written requests and the Bureau Director's response.
- b. The Evidence Custodian shall maintain a Controlled Substances for Training Log in which the acquisition, movement, and final disposition of the training stock shall be documented. The log shall be a bound ledger. Entries in the log shall be made in chronological order and in ink. The log entries for each controlled substance placed in training stock shall contain the following: type of substance; amount/weight; date of acquisition; court order number authorizing the use of the substance for training; evidence item and investigation numbers from which the stock was obtained; the number of separate packages or containers of each substance; and the weight of each package or container. Separate pages in the Log shall be used for the different types of substances placed in stock.

- c. Requests by law enforcement agencies or regional office personnel to obtain controlled substances for training shall be forwarded by the SAC to the Bureau Director for review and approval. The requests shall contain the name of the requesting agency; type and amount/weight of each controlled substance(s) requested; and type(s) of training for which the substance(s) will be used, i.e., canine training, community training, or law enforcement training. The maximum amount/weight provided shall be limited to the quantities specified in Section 804.4.9(b)(10). Controlled substances for training issued to other law enforcement agencies shall first be entered into the Controlled Substances for Training Log prior to being issued.
- d. Only after written approval of the Bureau Director shall the SAC issue the controlled substance(s) to the requesting agency(s) or to office personnel. The Bureau Director may, at his/her discretion, require the requesting agency or regional office personnel to obtain a court order prior to receiving the controlled substance(s).
- e. When controlled substance training stock is issued to regional office personnel or requesting agencies, the following information shall be entered on the Controlled Substances for Training Log: the date issued; name, signature, and agency of the person receiving the stock; type of substance; amount/weight and number of packages issued; the name/signature of the person issuing the stock; and remaining balance of the stock. When the training stock is issued, the regional office Evidence Custodian shall prepare a DLE 234 which shall contain the name, signature, and agency of the person receiving the stock; date issued; type, amount/weight and number of packages of each substance issued; and name and signature of the person issuing the stock. A copy of the DLE 234 shall be given to the person receiving the stock. The Evidence Custodian shall maintain the original DLE 234 in the Controlled Substances for Training file.
- f. When controlled substance training stock is returned to the Evidence Custodian, the agent returning the stock shall ensure the stock is weighed and the Evidence Custodian visually inspects the controlled substance(s). The weighing and visual inspection shall be witnessed and entered into the Controlled Substances for Training Log. All controlled substance for training stock shall have a presumptive test performed before being returned to the vault. The Evidence Custodian shall enter into the Controlled Substances for Training Log the date of return; the name, signature, and agency of the person returning the stock; type, amount/ weight and number of packages of each substance returned; name and signature of the person receiving the stock; and balance(s) of the substance(s) in stock. If a signature is not legible, the person's name shall be legibly printed below his/her signature. When the training stock is returned, the regional office Evidence Custodian shall prepare a DLE 234 in duplicate which shall contain the name, signature, and agency of the person receiving the stock; date returned; type, amount/weight and number of packages of each substance returned; and the name, agency, and signature of the person returning the stock. The original DLE 234 shall be given to the person returning the stock. The Evidence Custodian shall maintain a copy of the DLE 234 in the Controlled Substances for Training File.

- g. When controlled substance training stock is subject to destruction, the regional office Evidence Custodian shall comply with Policy Manual § 804.5.2. After destruction of the stock, the Evidence Custodian shall enter in the Controlled Substances for Training Log the date of destruction, his/her signature, court order number (if necessary), type, amount/weight and number of packages of each substance destroyed, and the remaining balance.
- h. The Evidence Custodian shall inventory the controlled substance training stock every six months. The inventories shall consist of visually inspecting and weighing each type of controlled substance and comparing the results with the DLE 234s, court orders and the Controlled Substances for Training Log. The inventory shall be reported to the SAC by memorandum. The memorandum shall contain the date(s) of the inventory, the name(s) of the person(s) participating in the inventory, and the results. Problems found during the inventory and an explanation of the steps taken to resolve those problems shall also be detailed in the memorandum.
- i. Each regional office shall be allowed to retain or issue the following maximum amounts of controlled substances for use as "training stock":

Controlled Substance	Maximum Amount/Weight
Heroin	10 pounds
Cocaine	10 pounds
Methamphetamine	10 pounds
Opium	10 pounds
Marijuana	20 pounds
All Other Allowed Substances	No more than 56 grams or 100 dosage units

## 804.5 RECORDING OF PROPERTY

The DLE Evidence Custodian/Property Controller receiving custody of evidence or property shall record the date the property was received and where the property will be stored in the evidence tracking program.

Each item of property shall be assigned an individual evidence item number in CIMS. The number shall consist of seven digits that indicate the report number associated with the evidence, the specific evidence item number and a free text data column.

- a. The evidence log shall contain the following information:

1. Investigation number and name
  2. Address/Location of seizure
  3. Name of case agent
  4. Name of submitting agent
  5. Date of the seizure
  6. Court of jurisdiction
  7. Evidence Item number
  8. Detailed description of the item
  9. Location stored
  10. In/out/not received
- b. The Chain of Custody sheet shall contain the following information:
1. Investigation number and name
  2. Case agent
  3. Evidence item number
  4. Date of seizure
  5. Date of submission to the evidence custodian
  6. Date evidence is removed from the evidence vault
  7. Date the evidence is returned
  8. Purpose/location for the removal of the evidence
  9. Signature and date of all individuals removing or returning evidence
  10. All dates of submission, removal, and return shall be in chronological order.
- c. The Chain of Custody sheet shall show all movement of evidence beginning with the initial submission to the Evidence custodian. The chain of custody for items placed in temporary evidence lockers shall be documented as required by Policy Manual § 804.3.4.

- d. Every time property is released or received, an appropriate entry on the evidence package shall be completed to maintain the chain of custody.

BMFEA SACs shall designate a SAS in each regional office to be responsible for identifying an Evidence Custodian, who will ensure that all evidence for which they are responsible is properly identified, marked and labeled. BMFEA case investigators shall log and place all evidence into the regional office evidence vaults. Evidence seized as a result of search warrants, undercover operations or other law enforcement activity shall be logged and booked into the evidence vault immediately upon receipt and return from the field activity. Whenever evidence is placed into or removed from the evidence vault, the investigator will fully document the transactions on the reverse side of the Property Report Form (MCF-015), labeled "Chain of Custody," in chronological order.

### **804.5.1 EVIDENCE VAULT FILES**

The Evidence Custodian shall maintain records of the activity of the evidence retained in the regional office or task force vaults. The evidence vault records shall be maintained in a secure, locked location for ten years from the last date of activity. These records shall consist of the following files:

- a. The Evidence Custodian shall maintain a file of completed Temporary Evidence Locker Tracking Logs. The logs shall be filed by year in case number order and shall be retained for ten years from the last date of activity.
- b. The Evidence Custodian shall maintain the evidence tracking program's Evidence Control Log, which consists of the Evidence Logs and the Chain of Custody sheets. The sheets shall be retained in binders filed together in investigation number order. Each binder shall contain no more than one calendar year of control logs. A task force's Evidence Control Log may consist of a bound ledger, copies of evidence booking forms used as an evidence log, or automated evidence system printouts as documented in the Task Force Manual. The binders shall be securely maintained in the evidence vault.
- c. The Evidence Custodian shall maintain an inventory file of the memorandums and attachments sent to the SAC/TFC documenting the inventories of the evidence vault conducted by the regional office or task force. The memorandums shall include the dates of the inventories, the personnel involved in the inventories, the procedures used to conduct the inventories in accordance with Policy Manual § 804.8, the discrepancies found in the inventories and the procedures for addressing the discrepancies and their resolution.
- d. The Evidence Custodian shall maintain a destruction file that contains copies of all documentation relating to evidence/property destruction. This file shall include copies of all court orders relating to those destructions, and attached inventories and memorandums to the SAC/TFC. The evidence vault destruction records shall be maintained in a secure, locked location.

- e. The Evidence Custodian shall maintain a release file which contains copies of all documentation relating to released, returned or transferred evidence/ property. This includes copies of all court orders, property receipts, and other documents relating to those releases. The Release File shall be maintained in a secure, locked location.
- f. The Evidence Custodian shall maintain a Firearm National Crime Information Center (NCIC)/California Law Enforcement Telecommunications System (CLETS)/Automated Firearms System (AFS) file containing printouts, made at the time of seizure, of all firearms retained in the vault. This file may be contained within the same binder as the evidence logs. These printouts shall be given to the Evidence Custodian who shall file them by investigation number. The file shall also contain printouts of the status checks for firearms at the time of disposal and printouts showing all destroyed or retained firearms were entered accordingly into the CLETS/AFS system.
- g. The Evidence Custodian shall maintain a Controlled Substances for Training file that contains documents relating to the training stock. This includes the DLE 234, court orders relating to controlled substances authorized for training purposes, copies of the written requests, and Bureau Directors' responses.

## **804.5.2 DESTRUCTION OF CONTROLLED SUBSTANCE EVIDENCE**

When controlled substances are no longer required as evidence in the prosecution or appeal of an investigation, upon receipt of a completed CIMS Case Inquiry Report or a Case Disposition Report, an Evidence Destruction Agent Review form, and receipt of a court order, if necessary, the controlled substances shall be removed from the evidence vault and destroyed in accordance with Policy Manual § 804.5.4.

- a. Specified amounts of seized controlled substances may be destroyed without a court order in accordance with Health and Safety Code §§ 11479, 11479.1, 11479.2, and 11479.5. Within 30 days of destruction, the case agent shall file the required affidavit with the court of jurisdiction.
- b. When evidence items are destroyed, the destruction date and the Evidence Custodian's signature shall be entered on the chain of custody sheets and an entry shall be made in the evidence tracking program or in the bound evidence log where appropriate.
- c. When controlled substances (found evidence, medications of deceased persons, etc.) that have not been introduced in any court proceeding and are not to be used in any prosecution are turned over for destruction, a case number shall be drawn and a report documenting the evidence shall be written. The receiving individual shall complete a DLE 234 for the receipt of the items. This shall include the number of packages, weight of each package, color, and/or amount/number of units (plants, dosage units, etc.). The Evidence Custodian shall enter this information into the evidence tracking program. This type of material shall be destroyed without analysis.

### **804.5.3 DESTRUCTION OF SEIZED MATERIAL**

The case agent and prosecuting attorney will examine any material and paraphernalia seized by the DLE, when not seized pursuant to a search warrant, to determine evidentiary value. Material and/or paraphernalia found to have no evidentiary value shall, upon completion of a CIMS Case Inquiry Report or a Disposition Report and an Evidence Destruction Agent Review form, be destroyed or returned to the owner(s) within 90 days of the date the decision was made.

If the material or paraphernalia was seized pursuant to a search warrant, a combined search warrant release and destruction order shall be obtained prior to the release or destruction of the material or paraphernalia. The Evidence Custodian shall inventory the material or paraphernalia using the following information:

- a. Name of defendant.
- b. Investigation number(s).
- c. Evidence item number(s).
- d. Description(s) of the material.
- e. Date of seizure.
- f. Name of prosecuting attorney consenting to the destruction/return.
- g. The return shall be witnessed by an agent.

Following destruction or return of the material or paraphernalia, the date, time and place of release or manner of destruction shall be recorded on a DLE 234 and signed by the Evidence Custodian, recipient, and the witnessing agent. A copy of the property receipt shall be placed in the investigation file or, if no investigation was associated with the material or paraphernalia, in the release file. The destruction or release shall be entered into the Chain of Custody Sheets and an entry shall be made in the evidence tracking program or the bound Evidence Log where appropriate.

### **804.5.4 DESTRUCTION PROCEDURES**

Evidence/Property destructions shall be conducted at least twice a year, or more frequently if needed, to decrease the inventory of evidence/property. Each bureau and its regional offices shall comply with the requirements of this manual in preparing and processing evidence/property for destruction. Task forces that have custodial responsibility, both on- and off-site, shall also conduct destructions as set forth in this manual.

- a. SACs/TFCs preparing for evidence/property destruction shall assign a destruction preparation team consisting of the Evidence Custodian, a SAS, and a Special Agent or task force agent who shall account for and prepare the evidence/property for destruction.

At least two of the team members shall be present whenever controlled substance evidence is moved, verified and packaged.

- b. The Evidence Custodian shall receive completed CIMS Case Inquiry Reports or Case Disposition Forms documenting adjudicated investigations.
- c. From these completed dispositions, the Evidence Custodian shall prepare a list of adjudicated cases by case number and case Special Agent and/or SAS.
- d. The Evidence Custodian shall print and distribute an Evidence Destruction Agent Review from the evidence tracking program listing each adjudicated case for each case agent and/or SAS. The case agents and SASs shall, within 30 days, review and return the printouts verifying that the evidence listed is associated with fully adjudicated investigations and there are no pending appeals in which more than 151 days have elapsed since the judgments were rendered.
- e. The Evidence Custodian shall, upon receipt of the completed, signed, and dated Evidence Destruction Agent Review forms, prepare an adjusted list, if necessary, of evidence items subject to destruction. These forms shall be retained as source documents for the disposition of evidence.
- f. Based on the adjusted list(s), the destruction preparation team shall move the evidence subject to destruction from their storage locations to a defined area within the evidence vault for processing.
- g. The destruction preparation team shall inspect each item of evidence/property to be destroyed to ensure that it matches the Evidence Destruction Agent Review printouts and chain of custody sheets and that it is still in its sealed container. An agent shall assist and be present as a witness at all times when controlled substance evidence is being prepared and packaged for destruction.
- h. Once all the evidence/property to be destroyed is verified and accounted for, the Evidence Custodian shall obtain Court Order Attachment printouts from the evidence tracking program for all evidence/property to be destroyed. The Evidence Custodian shall use these printouts to prepare a court order requesting the destruction of the evidence/property. The court orders for the destruction of evidence shall be formatted in compliance of the requirements of the court of jurisdiction. The destruction order will be obtained from the appropriate court.
- i. After obtaining the destruction order, the destruction preparation team shall box all controlled substances in separate containers from the non-controlled substance evidence/property. All the evidence to be destroyed shall be placed in containers in chronological order by investigation and evidence item number beginning with controlled substances. The separate sealed evidence items (as listed on the destruction order) shall be identified on the lid of the container. Examples:

1. Contains controlled substances from SA2004-00270, items 1 through 20 as listed on the destruction order.
  2. Contains non-controlled substance evidence from SA2004-00270, items 1 through 8 as listed on the destruction order.
- j. Each container shall be sequentially numbered (i.e., 1 of 12, 6 of 30, etc.), for each type of evidence (controlled substance or non-controlled substance evidence/property) and sealed with evidence tape. Each destruction preparation team member shall sign and date each sealed container.
- k. A separate master log of the controlled substance containers and non-controlled substance evidence/property containers shall be created by the Evidence Custodian and attached to the destruction order after the order has been signed by the appropriate magistrate. Any evidence/property that is too bulky to be placed in a container shall be sequentially numbered, labeled, and listed on the master log as a separate entry. The logs shall include the investigation and evidence item numbers. This master log shall be attached to the court order retained in the Evidence Destruction File.
- l. The Evidence Custodian shall prepare a memorandum that details the preparation process and verifies that the evidence/property listed on the destruction order is accounted for and prepared for destruction. The memorandum shall also explain in detail any discrepancies that were discovered during the preparation process, the steps taken to rectify those discrepancies, and any discrepancies that remain unresolved. The memorandum shall be signed by each destruction preparation team member and submitted to the SAC or TFC. The memorandum shall be maintained in the Evidence Destruction File for ten years from the date of destruction. If there are any unresolved discrepancies, the SAC shall forward a copy of the memorandum to the appropriate Bureau Director, or the TFC shall forward the memorandum to the SAC with a memorandum explaining the steps taken to ensure that the discrepancies do not occur again.
- m. Prior to the actual date of destruction, the SAC or TFC shall randomly select and inspect at least ten percent of the sealed containers and verify that the contents match what is listed on the container label and the destruction order. If there are less than ten containers, at least one shall be selected at random and inspected. If one or more of the containers contain controlled substances, at least one such container shall be selected for inspection. If there are no discrepancies, no further inspection is required.
- n. If there are any discrepancies, every container shall be opened and physically compared to the information on the destruction order and master logs. The SAC or TFC shall account for all items listed on the order and logs. If the discrepancies cannot be resolved, the order and logs shall be amended to accurately reflect the contents of the container. The SAC or TFC shall also direct the Evidence Custodian to create a memorandum listing the discrepancies and the steps taken to resolve those

discrepancies. Copies of this memorandum shall be forwarded via the Bureau Director to the Chief and Deputy or Assistant Chief.

- o. On the date of the actual destruction, the SAC or TFC shall assign an SAS or agent other than the personnel who assisted with the creation of the destruction order and master logs to work with the Evidence Custodian. This team shall oversee the actual evidence destruction and ensure that all of the items on the destruction order and master logs are destroyed. The SAC or TFC may assign as many personnel as needed to effectively and efficiently complete the destruction.
- p. The containers shall be transported to the destruction site in a fully enclosed, lockable vehicle that is equipped with a working alarm system. Whenever containers are in the vehicle, the vehicle shall not be left unattended at any time. At the destruction site, the SAS or task force agent assigned to the destruction team shall physically account for each numbered, sealed container, and ensure that each container is kept under constant observation by DOJ or Task Force personnel until it is actually destroyed.
- q. If seized firearms are not destroyed in the same manner as controlled substances, the acceptable alternative method of destroying seized firearms is by shredding, melting, crushing, or cutting such that the firearms are completely inoperable and not repairable.
- r. Electronic waste shall be destroyed in conformance with California Code of Regulations Chapter 22 and Health and Safety Code Division 20, Article 10.
- s. Once the destruction is complete, the Evidence Custodian shall submit to the SAC or TFC a memorandum that identifies the members of the destruction team, and the date, time, method, and location of the destruction. The memorandum shall also address any problems that occurred and the manner in which the problems were resolved. The memorandum shall be co-signed by the SAS or task force agent assigned the task of actually witnessing the destruction of the evidence, and by each destruction team member. A copy of the memorandum, destruction order, and master logs shall be kept in the Evidence Custodian's destruction file for ten years from the date of the destruction.

## **804.5.5 RELEASE OF EVIDENCE**

Pursuant to Penal Code § 1536, items seized pursuant to the service of search warrants (including monies, firearms, personal effects, and controlled substances) shall be released from the control of the Evidence Custodian only by order of the court. There are no exceptions to this policy.

Controlled substances may be released to another law enforcement agency only upon receipt of a court order. Copies of the court order shall be placed in the appropriate investigation file and in the evidence release file. The release shall be entered on the Chain of Custody sheets and an entry shall be made in the evidence tracking program or the bound Evidence Log where appropriate.

Upon the release of any evidence, a DLE 234 containing the defendant's name, investigation number, evidence item number(s), date and time of release, and a detailed description of the items being released shall be prepared by the Evidence Custodian, and signed by the Recipient, the Evidence Custodian, and a witness. The DLE 234 shall be distributed as required by Policy Manual § 804.2.1. The release shall be entered on the chain of custody sheets and an entry shall be made in the evidence tracking program or the bound evidence log where appropriate. A copy of the DLE 234 and appropriate court order should be placed in the investigation file or, if no investigation was associated with the evidence, in the evidence release file.

### **804.5.6 RELEASE/DESTRUCTION OF PERSONAL PROPERTY**

Property which is unlawful to possess or that is contaminated shall not be released under any circumstances.

Personal items submitted to the evidence vault for safekeeping should be returned to their rightful owner. A DLE 234 describing the returned items in detail shall be completed and signed by the property owner, Evidence Custodian, and a witness. The DLE 234 shall be distributed as required by Policy Manual § 804.2.1.

After an investigation has been adjudicated and prior to destruction or release of personal property, including firearms which had been seized for evidentiary purposes, court orders authorizing the destruction or release shall be obtained as required. The Evidence Custodian shall send a certified letter to known parties/owners informing them that the items are available for release. The Evidence Custodian shall attempt to obtain the most current address for the parties/owners. If a party/owner is incarcerated, the letter shall be sent to the place of incarceration.

The Evidence Custodian shall hold the personal property items for 90 days and firearms for 180 days from the date the certified letter was received by the property owners as indicated on the certified mail return receipt. If no contact is made by the owners during this 90/180-day waiting period, the items shall be destroyed. A copy of the letter and the certified mail receipt shall be placed in the investigation file. If the personal property is a firearm, the firearm shall not be released to a private individual until the requirements of Policy Manual §§ 804.4.3 through 804.4.6 have been met.

In the event that the certified letter is undeliverable and no contact is made with the rightful owner, the personal property shall be considered abandoned. The property shall be held for 90 days and firearms shall be held for 180 days from the date the certified letter was returned as undeliverable. After the 90-day or 180-day waiting period, the items shall be handled in accordance with Penal Code § 1417.5 as follows:

- a. If the property is jewelry or other items of easily converted value, it shall be transferred to the appropriate county agency for sale to the public in the same manner provided by

Government Code Title 3, Part 2, Chapter 5, Article 7 (commencing with § 25500) for the sale of surplus personal property (Penal Code § 1417.5(c)(2)).

- b. If the property is currency, it shall be handled in the following manner:
  - 1. If currency was seized by a task force, due diligence to find the legal owner must also be conducted. If the funds have not been claimed, the county treasurer shall dispose of this currency in accordance with Penal Code §§ 1417.5(c)(4) and 1420.
  - 2. If currency was seized by a regional office, the regional office Investigative Auditor shall file the necessary paperwork instructing OPS to transfer the funds to uncleared collections according to Policy Manual § 606.3.2.
- c. If the property is determined to have no value at public sale, it shall be destroyed (Penal Code § 1417.5(c)(3)).
- d. If the property is a firearm, see Policy Manual § 804.5.4 for disposal instructions.
- e. The returned certified letter shall be placed in the investigation file and a copy shall be given to the Evidence Custodian for placement in the evidence destruction file or release file.

## **804.6 PROPERTY CONTROL**

DLE uses an automated system to track all evidence seized and retained at DLE facilities during an investigation, which shall be maintained in each regional office by the Evidence Custodian/Property Controller. All other personnel have "read/inquire only" access to the system.

All items seized during a DLE investigation, including property, asset forfeiture items, chemical samples, photographs, and cassette tapes, that are to be stored by DLE shall be entered into the evidence tracking system. Entries shall accurately describe the item(s) seized. It is the responsibility of the reporting person to ensure that the description is consistent between the evidence section of the Investigation Report, the description on the container, and the description in the evidence log.

All entries made into the evidence tracking program shall accurately describe the item(s) seized. It is the responsibility of the reporting agent and his/her supervisor to ensure that the description of evidence is consistent between the evidence section of the investigation report, which details the seizure, the description on the evidence container, and the description in the Evidence Log. The evidence custodian shall complete the evidence tracking program's Evidence Entry Screen for every item accepted for placement in the evidence vault. The contents of the EATS Evidence Entry Screen are outlined in the EATS Manual. Upon completion of data entry into the evidence tracking program, one copy of the Evidence Log sheet and one copy of the Chain of Custody sheet shall be generated, which together comprise the Evidence Control Log. The submitting agent and evidence custodian shall each sign and date the Evidence Log sheet verifying the

evidence submitted, no later than five working days from the date the evidence was seized. All Evidence Log sheets shall be filed in the Evidence Control Log binder along with the Chain of Custody sheets in investigation number order and shall be maintained in the evidence vault for ten years from the date of last activity.

No changes in layout or format can be made to this system by the regional offices without the prior approval from the Office of the Chief. Suggested additions or modifications to the system shall be submitted in writing to the Office of the Chief for approval. If a change is approved for implementation, all regional offices shall adhere to the change.

Once the evidence is put into the evidence vault the Evidence Custodian/Property Controller shall maintain a record of the activity of the evidence. The records shall be kept in a secure, locked location for ten years from the last date of activity.

Evidence seized and retained by the BMFEA is tracked using the MCF-015 form. All items seized during an investigation that are to be stored by BMFEA in the evidence vault shall be accurately described on an MCF-015. All MCF-015 logs shall be filed in the Evidence Control Log binder by year, in Matter ID number order, and shall be maintained in the evidence vault for ten years from the date of the last activity.

### **804.6.1 TASK FORCE PROCEDURES/EVIDENCE SEIZED DURING JOINT INVESTIGATIONS**

Task force personnel shall comply with Policy Manual § 804.3.4 when using on-site temporary evidence lockers. Task force offices shall maintain a bound Evidence Control Log that includes the information required in Policy Manual § 804.3.4. The evidence custodian shall enter information in ink for all evidence retained on-site by the task force offices. The bound Evidence Control Log shall be maintained in the evidence vault for ten years from the date of the last activity. Task force offices that have automated evidence tracking systems may request approval to use hard copy printouts sequentially filed in a binder as Evidence Control Logs. Requests to use the printouts in lieu of the bound log shall be forwarded to the Office of the Chief. Requests shall be accompanied by a written description of the proposed procedures, a sample of the proposed printouts and the proposed Task Force Manual changes documenting the automated system. The automated system shall not be approved unless it is able to collect the information required in Policy Manual § 804.3.4.

Once Office of the Chief has approved the new procedures in writing, the TFC shall submit the proposed procedures to the Task Force Council or Executive Board for approval. When the procedures have been approved by the Council or Executive Board (i.e., minutes, memorandum, etc.), the automated evidence system may be implemented. As soon as practical, the TFC shall ensure the revised evidence procedures are incorporated into the Task Force Manual. The TFC shall also retain the OC and Council or Board's written approvals in the administrative files for the duration of the time the automated evidence system is in use by the task force office. When the printouts are used as evidence logs, the submitting task force agent shall sign and date each printout, verifying its accuracy.

Task force offices that retain their evidence with member agencies are required to maintain an evidence log. These task force offices are permitted to use copies of the local agency evidence booking forms as evidence logs. These forms shall be signed and dated by the submitting task force agent and filed sequentially by investigation number in a binder. It is the responsibility of the TFC to ensure that the task force's Evidence Control Log fully and accurately reflects all evidence booked with those agencies by the task force office. Submitting personnel shall obtain a receipt for all evidence/property delivered to a member agency for storage. If the accepting agency does not have its own receipt, a DLE 234 form shall be used.

## **804.6.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY**

Prior to delivery to the BFS Regional Laboratory, the Evidence container (BFS 2) shall be completed in detail by the individual submitting the evidence. Controlled substances shall be hand-delivered, not sent by mail or courier. Any money shall be submitted in a separate BFS 2. Designated laboratory personnel shall acknowledge receipt by signing the DLE 234.

Regional offices/labs and task forces that use the services of other drug/crime labs (i.e., LA Sheriff's Department Criminalistics Lab) for any analysis or criminalistic work shall comply with the process set by that lab. Controlled substances shall be hand delivered, not sent by mail or courier. The receiving individual shall acknowledge receipt by signing the DLE 234.

When evidence is returned to a regional office/task force evidence vault in unsealed containers, the containers shall be resealed, signed, and dated by the submitting agent/criminalist and the Evidence Custodian. If the contents of the container differ from when they were originally checked out, the discrepancy shall be noted on the container, evidence log, chain of custody sheets, and in the evidence tracking program.

If the change in the contents is unauthorized, unexplained and appears suspicious or inappropriate, the submitting agent/criminalist shall prepare a memorandum to the SAC/TFC. If the SAC/TFC cannot immediately resolve the issue, he/she shall notify the Bureau Director in writing within 24 hours. Further action concerning the issue shall be determined by the Bureau Director. The memorandum to the SAC/TFC should contain the following information:

- a. Case number.
- b. Type of evidence.
- c. Original weight and/or number of packages.
- d. When and by whom the evidence was signed out of the evidence vault.
- e. Purpose for the removal of the evidence.
- f. Date the evidence was returned.
- g. Who returned the evidence.

- h. The discrepancies in the weight(s) or number of packages.
- i. Why the agent considers the discrepancy suspicious or inappropriate.
- j. Steps taken to resolve the issue.
- k. Results of efforts to resolve the issue.

### **804.6.3 STATUS OF PROPERTY**

Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to agents for investigative purposes, or for court, shall be noted in the evidence tracking program, stating the date, time and to whom released.

The Evidence Custodian/Property Controller shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded in the evidence tracking program, indicating date, time, and the person who returned the property.

### **804.6.4 AUTHORITY TO RELEASE PROPERTY**

Bureaus shall authorize the disposition or release of all evidence and property coming into the care and custody of the Department.

### **804.6.5 RELEASE OF PROPERTY**

All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation.

Pursuant to Penal Code § 1536, items seized pursuant to the service of search warrants (including money, firearms, personal effects, and controlled substances) shall be released only by order of the court. There are no exceptions to this policy.

Controlled substances shall be released to another law enforcement agency only upon receipt of a court order. Copies of the court order shall be placed in the appropriate investigation file and in the Evidence Custodian's release file. The release shall be entered on the Chain of Custody sheets and an entry shall be made in the evidence tracking program or the bound Evidence Log where appropriate.

Upon the release of any evidence, a DLE 234 containing the defendant's name, investigation number, evidence item number(s), date and time of release, and a detailed description of the items being released shall be prepared by the Evidence Custodian/Property Controller and witnessed. The release will be entered on the Chain of Custody sheets and an entry will be

made in the evidence tracking program or the bound Evidence Log where appropriate. A copy of the DLE 234 and appropriate court order will be placed in the investigation file or, if no investigation was associated with the evidence, in the Evidence Release File.

Release of property shall be made upon receipt of an authorized release form, listing the name and address of the person to whom the property is to be released. The release authorization shall be signed by the authorizing supervisor or detective and must conform to the items listed on the property form or must specify the specific item(s) to be released. Release of all property shall be documented on the property form.

With the exception of firearms, which must be held for 180 days, and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, property personnel shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) may be auctioned to the highest bidder at a properly published public auction. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

After an investigation has been adjudicated and prior to destruction or release of personal property, court orders authorizing the destruction or release shall be obtained as required. The Evidence Custodian/Property Controller shall send a letter to known parties/owners informing them that the items are available for release. If the party/owner is incarcerated, the letter shall be sent to the place of incarceration.

In the event that the letter is undeliverable and no contact is made with the rightful owner, the personal property shall be considered abandoned. After the proper waiting period, the items shall be handled in accordance with Penal Code § 1417.5.

An Evidence Custodian/Property Controller shall release the property upon proper identification being presented by the owner for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original property form. Upon release, the proper entry shall be documented in the evidence tracking program.

#### **804.6.6 DISPUTED CLAIMS TO PROPERTY**

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

## **804.6.7 CONTROL OF NARCOTICS & DANGEROUS DRUGS**

The seizing bureau will be responsible for the storage, control, and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health & Safety Code § 11364.

## **804.7 DISPOSITION OF PROPERTY**

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Evidence Custodian/Property Controller shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a supervisor or detective.

### **804.7.1 EXCEPTIONAL DISPOSITIONS**

The following types of property shall be destroyed or disposed of in the manner, and at the time, prescribed by law unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code §§ 12028, 12029, 12251)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health & Safety Code § 11474, etc.)
- Unclaimed, stolen or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 12307)
- Gaming devices, which must be destroyed by mechanical means and disposed of at a location that can be viewed by the Evidence Custodian/Property Controller and witnessing agent to ensure that the devices are sufficiently demolished.

## **804.7.2 UNCLAIMED MONEY**

Seized currency that is no longer required as evidence and cannot be forfeited shall be returned to the person from whom it was seized. Funds that cannot be returned after a due diligence search shall be treated as unclaimed money.

If attempts to return the currency are unsuccessful and it cannot be returned per court order, currency seized by a regional office shall be deposited into the DOJ Litigation Fund and an Unclaimed Money form (BNE 049) shall be prepared, signed and sent with the deposit receipt to the OPS Accounting Office. The form and unclaimed money ledger are maintained in the Asset Forfeiture Tracking Program and should be reviewed every six months; all attempts to locate the individual from whom the money was seized should be noted in the ledger.

Currency seized by a task force shall be deposited with the county treasurer in accordance with Penal Code sections 1417(c)(4) and 1420.

The currency shall be returned to the individual from whom it was seized if he/she contacts the office within three years. Unclaimed currency escheats to the state if it has not been claimed by the owner within three years (Cal. Civ. Proc. Code § 1519).

## **804.7.3 MONEY, JEWELRY, AND OTHER EASILY CONVERTED ITEMS OF VALUE**

Money, jewelry, and other easily converted items of value shall be submitted to the SAC or TFC for storage in a safe at the regional/task force office, bank account, or safe deposit box at a banking institution. Money, jewelry, and other easily converted items of value submitted for storage shall be documented in the SAC/TFC's Safe Log, photographed, and the photographs handled as set forth in Policy Manual § 804.7.4, below. Items will also be listed in the appropriate evidence tracking system.

Prior to accepting custody of money, jewelry or other easily converted items of value, the SAC/TFC will verify the amount of the money or the amount and type of jewelry or other easily converted items of value that are being submitted. Verification will be noted by signing and dating the container in which the items were received. The container shall be sealed in the presence of both the SAC/TFC and the submitting agent.

## **804.7.4 PROCESSING OF PHOTOGRAPHS, VIDEO TAPES, DIGITAL MEDIA, AND AUDIO EVIDENCE**

- a. Agents, Criminalists, technical support staff and task force agents routinely utilize both still and video photographic devices during investigations. This photographic information may be recorded on celluloid-based negative film, magnetic tape or removable digital storage devices. Each media type requires different preparation and handling methods

prior to being entered into the evidence system. The following procedures shall be used to prepare the below-described media forms.

1. Celluloid-based film is the traditional method of taking evidence photographs, i.e., 35 mm film. In this media type, the celluloid negative represents the original image(s) and, therefore, the "best evidence," no changes may be made to an original negative(s). Successive generations of paper prints are copies of the original. If used as evidence, the photo print must be supported by a properly documented and stored negative. Unprocessed negative film shall be kept away from all light and radiation sources. Processed negative film shall be packaged to ensure storage in a cool, dry and dark environment. Back up copies of negative film evidence made via a digital scanning device may be utilized to enhance clarity, contrast or make enlargements for visual presentation.
2. Magnetic video tape is the most commonly used media for video recording. VHS, BETA, VHS<sub>c</sub> or 8mm formats are forms of plastic tape embedded with magnetic metal fragments. This media type is durable, but highly susceptible to erasure by electro-magnetic fields. Copies may be made through readily available copying devices; however, the video tape produced by the video camera is the original and, therefore, the "best evidence." No tape splices, erasures or other electronic edits to the original evidence video tape may be made unless such action is taken to repair a damaged tape. Any enhancements or edits of information on the tape must be accomplished using a copy of the original. Video tape evidence should be stored in plastic video tape cases and not placed in close proximity with electro-magnets or electronic sources other than those used to play or copy the video tape.
3. Removable digital media storage devices such as the 3.5" floppy disc, mini disc, memory stick, compact flash or SD card are a few of the common digital storage devices utilized in modern digital cameras. The CD-R or DVD-R is then recognized as the original image if the following procedure is followed:
  - a. Prior to use, ensure the digital storage device is empty or reformatted. Upon completion of the photography, the removable device, if practical, such as a 3.5" floppy disc or mini disc can be booked as evidence in accordance with Policy Manual §§ 804.3 and 804.4.1. If it is not practical to book the original digital storage device, the following download procedure shall be used:
    1. Make sure the digital camera is in the power off position and connect the camera to a computer using the appropriate manufacturer's software/cable, or card reader, to download the contents of the digital storage media device onto the computer's hard drive.
    2. Once the images from the device are present on the hard drive, ensure they are in a "read only" format and make a CD-R or DVD-R of the data. Replay

the CD or DVD to ensure the images were properly recorded from the hard drive.

3. Disconnect the camera from the computer and erase/reformat the camera's storage device for re-use.
4. The first generation CD-R or DVD-R created is now the original file of the image(s). The disc shall be marked with indelible marker on the label side with the following information:
  - The photographer's name
  - The date of photography
  - The investigation number
  - The evidence item number
  - A description/name of items/persons photographed
  - The name of the individual who created the CD/DVD if different than the original photographer
  - The date of the CD/DVD's creation
  - No alterations, edits or movement of any data is allowed on the original CD/DVD. Use of CD-RW (re-writable) or DVD-RW for the production of an original digital file is prohibited.
5. The original shall be packaged in commercially available CD/DVD protective cases (jewel cases) similar to those used by the music and movie industry for retail sale. If image enhancement or alteration for use as an investigative or training tool is needed, copies of the original disc may be made. The only image alterations which can be made to a copy of an original disc held as evidence are those associated with enhancing clarity, contrast, or enlargement.
6. Images are recorded in digital still photography in three main formats. They are RAW, TIFF and JPEG. Copies of an original CD/DVD may be reformatted from RAW or TIFF to JPEG (a compressed format) to increase data storage capacity of discs or prepare images for commercial printing.
7. Digital video recordings shall be handled in the same procedural manner as digital still photographs. However, several different digital formats designed especially for video images are utilized with digital video cameras such as MPEG and AVI. DLE shall use the original file format imbedded in the camera

used for the original recording for all subsequent copies unless the department equipment becomes incompatible with the original format. In that case, any recognized video format available may be used that does not alter the visual representation of the digital file.

8. This evidence, the digital storage media described in this section, shall be packed and labeled as specified in Policy Manual § 804.4.1 and submitted into evidence in accordance with Policy Manual § 804.3.

#### 4. Documentation of Alterations to Media Storage Devices

- a. When alterations (enhancements, enlargements, etc.) are made to a copy of an original disc or magnetic tape as noted in this Section that result in establishing additional investigative activity, probable cause, or will be used in court proceedings, the alterations shall be documented in an investigation report. The details shall include who conducted the alterations, the date(s) the alteration was conducted, the reason or purpose for the alterations, the name, title and agency of the requestor of the alteration if applicable, and the results of the alteration (additional investigative activity, probable cause, etc.).
  - b. The altered media storage devices shall be given an evidence item number and submitted into evidence. All repairs to media storage devices shall be documented in an investigation report detailing the need for the repair, who conducted the repair, the date(s) of the repair and the method of repair.
- b. Agents routinely make audio recordings during investigations. These audio recordings, whether analog or digital, are evidence and shall be treated accordingly. To maintain the integrity of the evidence, the responsible Special Agent or task force agent shall prepare the recordings according to the following procedures prior to submission to the Evidence Custodian and entered into the evidence system.
1. Magnetic tape is the most commonly used media for audio recording. This media type is durable and can be re-used, but is highly susceptible to erasure by electro-magnetic fields. If the magnetic tape has had prior use, it must be electronically erased or magnetically cleaned. Copies may be made through readily available copying devices; however, no tape splices, erasures or other electronic edits to the original evidence tape may be made unless such action is taken to repair a damaged tape. Any enhancements or edits of information on the tape must be accomplished using a copy of the original. Audio tape evidence should be stored in plastic video tape cases and not placed in close proximity with electro-magnets or electronic sources other than those used to play or copy the audio tape.
  2. Removable digital media storage devices such as the 3.5" floppy disc, mini disc, memory stick, compact flash or SD card are a few of the common digital storage devices utilized in modern recording devices. Like magnetic tape, digital storage

devices can be used multiple times by transferring the data recorded to another, more permanent storage media such as a computer hard drive, CD-R or DVD-R in a "read only" format. The removable media device can then be erased and re-used. The CD-R or DVD-R is then recognized as the original image if the following procedure is followed:

- a. Prior to use, ensure the digital storage device is empty or reformatted. Upon completion of the recording, the removable device, if practical, can be booked as evidence in accordance with Policy Manual §§ 804.3 and 804.4.1. If it is not practical to book the original digital storage device the following download procedure shall be used:
  1. Make sure the digital recording device is in the power off position and connect the recorder to a computer using the appropriate manufacturer's software/cable, or card reader, to download the contents of the digital storage media device onto the computer's hard drive.
  2. Once the images from the device are present on the hard drive, ensure they are in a "read only" format and make a CD-R or DVD-R of the data. Replay the CD or DVD to ensure the images were properly recorded from the hard drive.
  3. Disconnect the recorder from the computer and erase/reformat the camera's storage device for re-use.
- b. The first generation CD-R or DVD-R created is now the original file of the image(s). The disc shall be marked with indelible marker on the label side with the following information:
  1. The agent's name making the recording
  2. The date and time of the recording
  3. The investigation number
  4. The evidence item number
  5. A description of the recording
  6. The name of the individual who created the CD/DVD if different than the original recording agent
  7. The date of the CD/DVD's creation

8. No alterations, edits or movement of any data is allowed on the original CD/DVD. Use of CD-RW (re-writeable) or DVD-RW for the production of an original digital file is prohibited.
  - c. The original shall be packaged in commercially available CD/DVD protective cases (jewel cases) similar to those used by the music and movie industry for retail sale. If recording enhancement or alteration for use as an investigative or training tool is needed, copies of the original disc may be made. The only recording alterations which can be made to a copy of an original disc held as evidence are those associated with enhancing clarity.
3. The digital storage media described in this section shall be packed and labeled as specified in Policy Manual § 804.4.1 and submitted into evidence in accordance with Policy Manual § 804.3. All audio/video tapes and digital disks that are related to a "wire tap" investigation shall be identified accordingly and retained as evidence for ten years.
  - c. When alterations (enhancements, clarity, etc.) are made to a copy of an original disc or magnetic tape as noted in this section that result in establishing additional investigative activity, probable cause, or will be used in court proceedings, the alterations shall be documented in an investigation report. The details shall include who conducted the alterations, the date(s) the alteration was conducted, the reason or purpose for the alterations, the name, title and agency of the requestor of the alteration if applicable, and the results of the alteration (additional investigative activity, probable cause, etc.).
    1. The altered media storage devices shall be given an evidence item number and submitted into evidence. All repairs to media storage devices shall be documented in an investigation report detailing the need for the repair, who conducted the repair, the date(s) of the repair and the method of repair.
  - d. Following the retrieval of the digital evidence, the computers, electronic devices, or digital media shall be packaged in accordance with Policy Manual § 804.4.1. These items must be stored in an environment free from magnets, radio transmitters, heat, liquids, microwaves and excessive dust.
  - e. For the purpose of this policy, the terms wiping and sanitizing are used to describe the process of electronically shredding the contents of a file or disk space. This procedure or process will overwrite the target data area. Overwriting three times is sufficient. It is the responsibility of the case agent to ensure that all digital media be wiped or sanitized utilizing an industry standard sanitization or wiping program prior to return or release. This procedure shall be documented in a report by the case agent indicating the personnel who conducted the wiping or sanitization process, the method or program used, the amount of data wiped, and the date the wiping occurred.

- f. In addition to the methods described above, BMFEA agents may utilize ProLaw to store digital media.

## **804.8 EVIDENCE INVENTORY/INSPECTIONS OF THE EVIDENCE VAULT**

- a. All evidence retained in a regional office evidence vault and at a regional office offsite evidence storage facility shall be inventoried once every 12 months by the regional office, in a special inspection ordered by the Chief, or when the Evidence Custodian changes. The inspection shall consist of a 100 percent audit of the evidence vault. The regional office inventory shall be conducted by a minimum of two people, one of whom shall be an SAS. The Evidence Custodian shall not be part of the inventory team, but shall assist the team in answering questions and locating evidence. The inventory shall be completed within ten working days of the start of the inventory.
  1. The primary document for the vault inventory shall be copies of the evidence tracking program's vault inventory printout. The vault inventory shall consist of checking each evidence item against the evidence tracking program's vault inventory printout and if necessary, the Evidence Log and the Chain of Custody sheets to ensure the information on the evidence package relating to identification (case name, case number, date and location of seizure, submitting Special Agent, etc.), description of contents, and location (meaning in, out or not received) match with the evidence tracking program documents. In those units in which the bound Evidence Control Log is still in use, the evidence shall be compared with those log entries. Sealed containers shall not be opened during the inventory unless there is reason to believe that the contents do not match the description of the contents on the container or the seal is broken. Additional documents available in EATS are the Chain of Custody sheets, Table of Contents, Currency Summary, Weapons, or Sub Sample Summaries, and destruction or release documents. The evidence inventory shall be documented on the Chain of Custody sheet by date, purpose and signature of a member of the audit team.
  2. An investigation file review may be conducted if necessary. Documents necessary to the report review include investigation files documenting the seizure of evidence, the Vault Inventory, Table of Contents, and various summaries. The review of the investigation files includes comparing the evidence listed in the investigation reports with the evidence listed on the relevant evidence tracking program documents. Additionally, the review shall include the details of the evidence in the narrative of the report, evidence item numbering, and property receipts.
  3. Inventories conducted during inspections shall be reported following routine inspection procedures. Upon completion of the inventory by the regional office, a memorandum to the SAC shall be prepared by the assigned SAS and signed by all

persons who participated in the inventory. This memorandum shall identify the persons who participated in the inventory, the date(s) and results of the inventory, the specific discrepancies, including the case numbers and evidence item numbers, and the steps taken to resolve those discrepancies.

- a. The determination to resolve discrepancies in closed or adjudicated investigations shall be made by the SAC in conjunction with bureau headquarters depending on the criticality of the discrepancy, the availability of information and resources. Discrepancies found concerning open investigations or closed investigations pending adjudication must be resolved. Within 30 days of the completion of the inventory in which all discrepancies were resolved, the SAC shall forward a copy of the inventory to bureau headquarters. Upon approval by the Bureau Director, a copy shall be forwarded to the Chief and Deputy or Assistant Chief. If approval is not given, the Bureau Director will provide the regional manager with direction and a time frame to address the requests for additional information by the Bureau Director.
  - b. If there are unresolved discrepancies, the SAC shall send a copy of the inventory memorandum to the Bureau Director accompanied by a memorandum prepared by the SAC explaining the steps being taken to resolve the discrepancies and the measures taken to prevent them from occurring again. The Bureau Director shall provide the SAC with further directions and an additional 30 days to resolve the discrepancies. Upon resolution of all discrepancies the Bureau Director shall forward copies of all related memorandums to the Chief and the Deputy or Assistant Chief.
- b. All task force evidence retained in task force offices shall be inventoried once every 12 months by the task force staff or during a special inspection ordered by the Chief, a change of Evidence Custodian inspection, or a change of command inspection. The inventory process shall consist of two parts: a 100 percent audit of the vault and a review of the investigation files. This includes evidence retained at both on and off-site evidence storage facilities. The audit team shall be selected by the TFC, with the approval of the regional manager, who may assign regional office personnel to assist in the inventory. The inventory shall be conducted by a minimum of two people. The inventory shall be completed within 10 working days of the start of the inventory.
1. Documents necessary to the vault inventory include, but are not restricted to, the Evidence Control Log, copies of evidence booking forms used as an evidence log or, if the task force uses an automated system, a printout of all items stored in the evidence vault. Additional source documents may be destruction orders, release documents and property receipts.
  2. The inventory shall consist of checking each evidence item against the source control documents to ensure the information on the evidence package relating to identification (case name, case number, date and location of seizure, submitting

agent, etc.), description of contents, and location (meaning in, out or not received) match with the source control documents. Sealed containers shall not be opened during the inventory unless there is reason to believe that the contents do not match the description of the contents on the container or the seal is broken. The evidence inventory shall be documented on the Chain of Custody by date, purpose and signature of a member of the inventory team.

3. An investigation file review shall be conducted during an inspection. Documents necessary to the report review include investigation files documenting the seizure of evidence, the Evidence Control Log, copies of evidence booking forms used as an evidence log or, if the task force uses an automated system, a printout of all items currently stored in the evidence vault. Additional source documents may be destruction orders, release documents and property receipts. The file for each investigation during which evidence was seized since the last inventory shall be reviewed to identify any evidence that should be in the vault. This information shall be compared to the evidence control documents to ensure that all of the evidence was properly submitted to the evidence vault. Additionally, the review shall include the details of the evidence in the narrative of the report, evidence item numbering and property receipts.
4. Inventories conducted during inspections shall be reported following routine inspection procedures. Upon completion of the inventory, a memorandum to the TFC shall be prepared by the inventory team leader and signed by all persons who participated in the inventory. This memorandum shall identify the persons who participated in the inventory and detail the date and results of the inventory including a description of all discrepancies found, including the case numbers and evidence item numbers, and the steps taken to resolve those discrepancies.
  - a. The determination to resolve discrepancies in closed or adjudicated investigations shall be determined by TFC in conjunction with the SAC, depending on the criticality of the discrepancy, the availability of information, and resources. Discrepancies found concerning open investigations or those pending adjudication must be resolved. Within 30 days of the completion of the inventory in which all discrepancies were resolved, the TFC shall forward a copy of the inventory to the SAC. Upon approval by the SAC, a copy shall be forwarded to the Bureau Director for review and approval. If approval is not given, the SAC shall provide the TFC with direction and a time frame to address the request for additional information by the SAC.
  - b. If there are unresolved discrepancies, the TFC shall send a copy of the inventory memorandum to the SAC accompanied by a memorandum prepared by the TFC explaining the steps being taken to resolve the discrepancies and the measures taken to prevent them from occurring again. The SAC shall provide the TFC with further directions and an additional 30 days to resolve the discrepancies. Upon

resolution of all discrepancies, the SAC shall forward copies of all related memorandums to the Bureau Director for review and approval.

5. A complete inventory of the evidence vault, as set forth in Policy Manual § 804.8(a)(1), shall be conducted whenever there is a change of TFC. This inventory shall be completed at the time the current TFC leaves the assignment, and may be conducted during the change of command inspection. The SAC shall assign an SAS and a Property Controller to conduct the inventory. When possible, the inventory should include the incoming TFC. The results shall be reported in the same manner as an annual inventory, except that the inventory memorandum shall initially be submitted to the incoming TFC.
- c. A complete inventory of the evidence vault, as set forth in Policy Manual § 804.8(a)(1), shall be conducted whenever there is a change of Evidence Custodian. The inventory shall be completed before the incoming Evidence Custodian becomes responsible for the evidence vault. The SAC shall assign an SAS and a Property Controller to conduct the inventory and, when possible, the inventory should involve the incoming and outgoing Evidence Custodians. The results shall be reported in the same manner as an annual inventory. A task force's inventory memorandum shall be prepared by the incoming Evidence Custodian and initially submitted to the TFC.
- d. Task forces that book task force evidence with member agencies and comply with that member's evidence rules and procedures are not required to inventory task force evidence.
- e. Situations may arise when the Chief determines that an unannounced complete evidence audit will be conducted of a regional office or task force's evidence vault. The Bureau Director will be notified at least three calendar days prior to the commencement of the audit. The regional manager shall ensure that the appropriate persons (i.e., Evidence Custodian, Property Controller, etc.) are available in the task force office for the duration of the audit.

## **808 Restoration of Firearm Serial Numbers**

### **808.1 PURPOSE AND SCOPE**

The primary purpose for restoring firearm serial numbers is to determine the prior owners or origin of the item from which the number has been recovered. Thus, property can be returned to rightful owners or investigations can be initiated to curb illegal trade of contraband firearms. The purpose of this plan is to develop standards, methodologies, and safety protocols for the recovery of obliterated serial numbers from firearms and other objects using procedures that are accepted as industry standards in the forensic community. All personnel who are involved in the restoration of serial numbers will observe the following guidelines. This policy complies with Penal Code § 11108.9.

### **808.2 PROCEDURE**

Any firearm coming into the possession of the California Department of Justice as evidence, found property, etc., where the serial numbers have been removed or obliterated will be processed in the following manner:

#### **808.2.1 PRELIMINARY FIREARM EXAMINATION**

- a. Always keep the muzzle pointed in a safe direction. Be sure the firearm is in an unloaded condition. This includes removal of the ammunition source (e.g., the detachable magazine, contents of the tabular magazine) as well as the chamber contents.
- b. If the firearm is corroded shut or in a condition that would preclude inspection of the chamber contents, treat the firearm as if it is loaded. Make immediate arrangements for a firearms examiner or other qualified examiner to render the firearm safe.
- c. Accurately record/document the condition of the gun when received. Note the positions of the various components such as the safeties, cylinder, magazine, slide, hammer, etc. Accurately record/document cylinder chamber and magazine contents. Package the ammunition separately.
- d. If the firearm is to be processed for fingerprints or trace evidence, process before the serial number restoration is attempted. First record/document important aspects such as

halos on the revolver cylinder face or other relevant evidence that might be obscured by the fingerprinting chemicals.

## **808.2.2 PROPERTY BOOKING PROCEDURE**

Any employee taking possession of a firearm with removed/obliterated serial numbers shall book the firearm into property following standard procedures. The employee booking the firearm shall indicate on the property form that serial numbers have been removed or obliterated.

## **808.2.3 AGENT RESPONSIBILITY**

The agent seizing a firearm when the serial numbers have been removed or obliterated shall arrange for the firearm to be transported to the crime lab for restoration and maintain the chain of evidence.

## **808.2.4 DOCUMENTATION**

Investigation reports are prepared in order to document the chain of custody and the initial examination and handling of evidence from the time it is received/collected until it is released.

This report must include a record of the manner in which and/or from whom the firearm was received. This may appear on the request form or property form depending on the type of evidence.

## **808.2.5 FIREARM TRACE**

After the serial number has been restored (or partially restored) by the criminalistics laboratory, the Property Controller will complete a Bureau of Alcohol, Tobacco, and Firearms (ATF) National Tracing Center (NTC) Obliterated Serial Number Trace Request Form (ATC 3312.1OBL) and forward the form to the NTC in Falling Waters, West Virginia or enter the data into the ATF eTrace system.

### **808.3 BULLET AND CASING IDENTIFICATION**

Exemplar bullets and cartridge cases from the firearm, depending upon acceptance criteria and protocol, may be submitted to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Integrated Ballistic Information Network (NIBIN) which uses the Integrated Ballistic Identification System (IBIS) technology to search the national database and compare with ballistic evidence recovered from other crime scenes.

## **810 Release of Records and Information**

### **810.1 PURPOSE AND SCOPE**

The purpose of this section is to establish a comprehensive reference and procedure for the maintenance and release of Department reports and records in accordance with applicable law.

#### **810.1.1 COORDINATOR**

For the purpose of this policy, the coordinator is the employee designated to coordinate the program's response to requests for records. The designated coordinators are:

- a. DLE - The Litigation Coordinator
- b. BOF - The DAG assigned to the BOF
- c. BMFEA - The Chief of Prosecutions

### **810.2 PUBLIC REQUESTS FOR RECORDS**

The California Public Records Act (PRA) (Government Code § 6250, et seq.) provides that records created by a public agency shall be subject to inspection and release pursuant to request, except pursuant to exemptions set forth in the Act or otherwise established by statute.

The Information Practices Act (IPA) (Civil Code § 1798 et seq.) allows individuals the right to inquire and be advised as to whether or not a state agency maintains records containing personal information about themselves.

Public requests for records of this department shall be processed as follows:

#### **810.2.1 PROCESSING OF REQUESTS**

Any member of the public, including the media and elected officials, may access unrestricted records of this department by submitting a written and signed request for each record sought and paying any associated fees (Government Code § 6253).

The Coordinator must be notified of all PRA and IPA requests immediately upon receipt. PRA and IPA requests submitted to the BMFEA shall be forwarded to the BMFEA Headquarters. Prompt attention and communication with the Coordinator is required to ensure consistency in the processing and dissemination of information, as well as compliance with the legislatively mandated response time. This is especially important if the Bureau is attempting to assert exemption from disclosure to any or all of a request.

The Coordinator shall prepare a written response advising the requester that all information pertaining to the request is being released and exempt information withheld pursuant to State

statutes. The DLE Litigation Coordinator may contact the lead Supervising DAG in the Civil Division for assistance. The Coordinator shall maintain a log of requests received from all sources.

The processing of requests is subject to the following limitations:

- a. The Coordinator shall determine if the requested record is available and/or subject to any exemption from disclosure. Processing of such requests may take up to ten days and an additional 14-day extension may be authorized (Government Code § 6253(c)). Facilitating inspection of records containing personal information under the IPA may take up to 30 days, or up to 60 calendar days if the records are geographically dispersed or inactive and in central storage (Civil Code § 1798.34).
- b. The requesting party shall be required to pay in advance any established fee for each record sought (Civil Code § 1798.33 and Government Code § 6253(b)).
- c. In accordance with the PRA, the Department is not required to create records that do not otherwise exist in order to accommodate a request under the PRA.

Requests by elected officials for records that are not open to public inspection should be referred to the appropriate DAG for a determination as to whether the records will be released.

## **810.3 REPORT RELEASE RESTRICTIONS**

Absent a valid court order or other statutory authority, records and/or unrestricted portions of such records of this department shall be made public subject to the following restrictions:

### **810.3.1 GENERAL CASE AND CRIME REPORTS**

Reports containing any of the items listed below will not be released:

- a. **Victim Information** - Victims of crimes who have requested that their identifying information be kept confidential, victims who are minors and victims of certain offenses (e.g., sex crimes, Penal Code § 293) shall not be made public. [ disclose to any arrested person or to any person who may be a defendant in a criminal action the address or telephone number of any person who is a victim or witness in the alleged offense, unless it is required by law (Penal Code § 841.5).
- b. **Confidential Information** - Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved or information that would endanger the successful completion of the investigation or a related investigation shall not be made public.
  1. Analysis and conclusions of investigating agents may also be exempt from disclosure.

2. If it has been noted in any report that any individual wishes to protect his/her right to privacy under the California Constitution, such information may not be subject to public disclosure.
- b. **Specific Crimes** - Reports involving, but not limited to, **child abuse/molestation** (Penal Code § 11167.5), **elder abuse** (Welfare and Institutions Code § 15633) and **juveniles** (Welfare and Institutions Code § 827) shall not be made public.
- c. **General Information** - Absent statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).
- d. **Deceased juvenile crime victims** - The Code of Civil Procedure § 130 limits the dissemination of autopsy and private medical information concerning a murdered child by allowing families to request that the autopsy report of the victim be sealed from public inspection. Such requests shall be honored, with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).

### **810.3.2 ARREST REPORTS**

Arrestee information shall be subject to release in the same manner as information contained in other reports as set forth above.

In addition to the restrictions stated above, all requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, Attorney General or the courts pursuant to Penal Code § 1054.5.

State criminal history information including, but not limited to, arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.

### **810.3.3 TRAFFIC COLLISION REPORTS**

Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles, other law enforcement agencies and those individuals and their authorized representatives set forth in Vehicle Code § 20012.

### **810.3.4 PERSONNEL RECORDS**

Personnel records, medical records and similar records which would involve personal privacy shall not be made public (Government Code § 6254(c)).

Peace officer personnel records are deemed confidential (Penal Code § 832.7, et seq.) and shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order (Evidence Code § 1043, et seq.).

The identity of any agent subject to any criminal or administrative investigation shall not be released without the consent of the involved agent, prior approval of the Chief or as required by law (Government Code § 3300 (e)).

Personal information shall not be disclosed in a manner that would link the information disclosed to the individual to whom it pertains unless it is disclosed under the conditions specified in Civil Code § 1798.24.

All requests for peace officer personnel records shall be handled exclusively by the Coordinator.

In a case in which discovery or disclosure is sought for peace officer personnel records, the party asking for such discovery or disclosure shall file a written motion with the appropriate court. The employee receiving the notice shall immediately notify the person whose records are sought. All such motions shall be faxed to the Litigation Coordinator or BMFEA Chief of Investigations, who will review the peace officer's file(s) for responsive documents. If necessary, the Litigation Coordinator or BMFEA Chief of Investigations may contact an SDAG and request that a DAG be assigned to respond to the motion.

Failure to comply within the prescribed time limits may result in the Department being held in contempt of court or ordered to produce the personnel file(s). As such, it is critical that all such requests be immediately forwarded to the Litigation Coordinator or BMFEA Chief of Prosecutions.

### **810.3.5 CONCEALED WEAPONS PERMITS**

Information contained in CCW permit applications or other files which would tend to reveal where the applicant is vulnerable or which contains medical or psychological information shall not be made public (Government Code § 6254(u)).

### **810.3.6 DOMESTIC VIOLENCE REPORTS**

Victims of domestic violence or their representative shall be provided, without charge, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.

### **810.4 OTHER RECORDS**

Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including, but not limited to, provisions of the Evidence Code relating to privilege or to the security of the department's electronic technology systems (Government Code § 6254(k) and Government Code 6254.19).

The Department maintains the right to refuse to disclose or release any other record when it would appear that the public's interest in accessing such record is outweighed by the need for nondisclosure (Government Code § 6255).

Any record which was created exclusively in anticipation of potential litigation involving this department shall not be subject to public disclosure (Government Code § 6254(b)).

#### **810.4.1 PERSONAL IDENTIFYING INFORMATION**

Employees shall not access, use or disclose personal identifying information, including an individual's photograph, social security number, driver identification number, name, address, telephone number and the individual's medical or disability information, which is contained in any driver license record, motor vehicle record or any department record except as authorized by the Department and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721 and 18 USC § 2722).

#### **810.5 SUBPOENA DUCES TECUM**

Any Subpoena Duces Tecum should be promptly provided to the Litigation Coordinator 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.

All questions regarding compliance with any Subpoena Duces Tecum should be promptly referred to the Coordinator so that a timely response can be prepared.

When a Subpoena Duces Tecum is received by the BOF, it will be processed by the BOF DAG.

When a Subpoena Duces Tecum is received by the BMFEA, it shall be provided to the regional SDAG responsible for the matter.

To assist with tracking Subpoena Duces Tecum information released to the prosecuting or defense attorney, the DLE Litigation Coordinator shall complete and retain a Disclosure of Documentation Worksheet (DLE 183).

#### **810.6 RELEASED RECORDS TO BE STAMPED**

Each page of any record released pursuant to a PRA request or Subpoena Duces Tecum shall be stamped in red ink with a departmental stamp identifying the individual to whom the record was released.

## **812 Criminal Offender Record Information (CORI)**

### **812.1 PURPOSE & SCOPE**

This policy provides guidelines for the release of criminal offender information, security of that information, and persons authorized to release that information.

### **812.2 AUTHORITY**

This policy is established pursuant to the mandate of the Regulations Regarding Security of Criminal Offender Record Information in California, Title 11, California Administrative Code. Other authority includes Penal Code § 11105, which delineates who has access to Criminal Offender Record Information (CORI), and Penal Code §§ 11140 through 11144, which establishes penalties for the improper use of rap sheets.

### **812.3 DEFINITIONS**

**Criminal Offender Record Information** - (CORI) shall include CII manual/automated rap sheets and abstracts, CII crime summaries, CII criminal history transcripts, FBI rap sheets, and any DLE documents containing a list of prior arrests.

**Criminal Justice Agency** - Means a public agency or component thereof which performs a criminal justice activity as its principal function.

**Authorized Recipient** - Means any person or agency authorized by court order, statute or case law to receive CORI.

**Right to Know** - Means persons or agencies authorized by court order, statute or decisional case law to receive the information.

**Need to Know** - Means a necessity exists to obtain CORI in order to execute official responsibilities.

### **812.4 AUTHORIZED RECIPIENTS OF CORI**

CORI may be released only to authorized recipients who have both a right to know and a need to know. All law enforcement personnel with proper identification are authorized recipients, if they have an official need to know.

The California Department of Justice has issued a list of agencies authorized to receive criminal history information. Persons not included in the Department of Justice list are not authorized recipients and shall not receive CORI.

## **812.4.2 RELEASE OF CORI**

Each authorized person releasing CORI is responsible to ensure that each request granted appears legitimate and that the requester is an authorized recipient with a right and need to know.

## **812.4.3 RELEASE OF CORI TO FIELD PERSONNEL**

Personnel shall not have access to CORI until a background investigation has been completed and approved. CORI shall not generally be transmitted by radio, cellular phone, or through computer terminals to field personnel or vehicles except in cases where circumstances reasonably indicate that the immediate safety of the agent or the public are at significant risk.

Examples of situations where the transmission of summary criminal history information would be justified include a hostage situation or an armed suspect; however, a routine investigation or traffic enforcement stop would not be sufficient justification.

Nothing in this procedure is intended to prohibit broadcasting warrant information concerning wanted persons.

## **812.5 JUVENILE RECORDS**

Nothing in this procedure is intended to alter existing statutes, case law, or the policies and orders of the Juvenile Court regarding the release of juvenile offender records. Refer to Policy Manual § 324 for more specific information regarding cases involving juveniles.

## **812.6 REVIEW OF CRIMINAL OFFENDER RECORD**

Penal Code §§ 11120 through 11127 provide the authority and procedure whereby an individual may review his/her own California Department of Justice (CII) rap sheet. Individuals shall be allowed to review their arrest or conviction record on file with the Department after complying with all legal requirements.

## **812.7 PROTECTION OF CORI**

CORI shall be secured in locked desks, locked file cabinets, or in locked rooms. Direct access to CORI shall be restricted to those persons who possess both the right to know and the need to know the information.

### **812.7.1 COMPUTER TERMINAL SECURITY**

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

## **812.7.2 DESTRUCTION OF CORI**

When any document providing CORI has served the purpose for which it was obtained, it shall be destroyed by shredding.

Each employee shall be responsible for destroying the CORI documents they receive.

## **812.8 TRAINING PROGRAM**

All personnel authorized to process or release CORI shall be required to complete CLETS training.

## **812.9 PENALTIES FOR MISUSE OF RECORDS**

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

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

Divulging the content of any criminal record to anyone other than authorized personnel is a violation of Policy Manual § 340.37 (a).

Employees who obtain, or attempt to obtain, information from the department files other than that to which they are entitled in accordance with their official duties is a violation of Policy Manual § 340.37(a).

## **812.10 NO LONGER INTERESTED NOTIFICATION**

When the Department no longer has a legitimate need to know, (i.e., an employee separates, a retired agent does not wish to renew his/her CCW, a gambling application pertaining to an individual applicant becomes inactive, etc.), a No Longer Interested Notification (NLI) form (BCII 8302A) shall be completed and submitted according to the instructions on the form.

## **814 Computers and Digital Evidence**

### **814.1 PURPOSE AND SCOPE**

This policy establishes the preservation and storage of digital evidence. All evidence seized and/or processed pursuant to this policy shall be done so in compliance with clearly established Fourth Amendment and search and seizure provisions.

### **814.2 SEIZING COMPUTERS AND RELATED EVIDENCE**

Computer equipment requires specialized training and handling to preserve its value as evidence. Agents should be aware of the potential to destroy information through careless or improper handling, and utilize the most knowledgeable available resources. When seizing a computer and accessories, the following best practices for seizing electronic evidence should be followed:

- a. Photograph each item as it is in place.
- b. Do not overlook the possibility of the presence of physical evidence on and around the hardware relevant to the particular investigation such as documents or notes which may contain information (passwords) pertaining to the investigation.
- c. If the computer is off, leave it off, photograph it and seize it.
- d. If the computer is on, determine if the monitor is on and if it is not, then turn it on. It may be necessary to move the mouse or press the space bar to wake up the computer.
  1. Photograph the screen, if possible, and note any programs or windows that appear to be open and running.
  2. If a Computer Forensic Examiner is available, consideration should be given to checking if encryption is enabled on a live computer. Powering off computers using full disk encryption and/or individual file encryption could make the data unlikely to be recovered without the passwords.
  3. If a Computer Forensic Examiner is not available, disconnect the power cable from the back of the computer box or if a portable notebook style, disconnect any power cable from the case and remove the battery).
- e. Label each item with case number, evidence sheet number, and item number.
- f. Handle and transport the computer and storage media (e.g., tape, discs, memory cards, flash memory, external drives) with care so that potential evidence is not lost.
- g. Store all computer items in the evidence vault. Do not store computers where normal room temperature and humidity is not maintained.

- h. At minimum, agents should document the following in related reports:
  - 1. Where the computer was located and whether or not it was in operation.
  - 2. Who was using it at the time.
  - 3. Who claimed ownership.
  - 4. If it can be determined, how it was being used.
- i. In most cases when a computer is involved in criminal acts and is in the possession of the suspect, the computer itself and all storage devices (digital media) should be seized along with all media. Accessories (printers, monitors, mouse, scanner, keyboard, cables, software and manuals) should not be seized unless as a precursor to forfeiture.
- j. BMFEA agents seizing computer evidence shall assign a unique item number that includes the location number, room number and item number, for example: Loc1 RmA ltmC1. Each seized computer evidence item shall also be tagged and identified by the case name, matter ID and address where the item was seized.

### **814.2.1 BUSINESS OR NETWORKED COMPUTERS**

If the computer belongs to a business or is part of a network, it may not be feasible to seize the entire computer. Cases involving networks require specialized handling. Agents should contact a certified forensic computer examiner for instructions or a response to the scene. It may be possible to perform an onsite inspection, or to image the hard drive only of the involved computer. This should only be done by someone specifically trained in processing computers for evidence.

### **814.2.2 FORENSIC EXAMINATION OF COMPUTERS**

If an examination of the contents of the computer's hard drive or other digital media is required, forward the following items to a computer forensic examiner:

- a. Copy of report(s) involving the computer, including the Evidence/Property sheet.
- b. Copy of a consent to search form signed by the computer owner or the person in possession of the computer, or a copy of a search warrant authorizing the search of the computer hard drive for evidence relating to investigation.
- c. A listing of the items to search for (e.g., photographs, financial records, email, documents).
- d. A list of keywords to be searched for that are related to the investigation. The keyword list should be in digital format.

- e. A digital forensic image of the digital media will be made using industry standard forensically sound techniques by someone trained in the examination of computer storage devices for evidence.

### **814.3 SEIZING DIGITAL STORAGE MEDIA**

Digital storage media including hard drives, CD's, DVD's, memory cards, or flash memory devices should be seized and stored in a manner that will protect them from damage.

Do not review, access or open digital files prior to submission. If the information is needed for immediate investigation, copy the contents to an appropriate form of storage media.

- a. Many kinds of storage media can be erased or damaged by magnetic fields. Keep all media away from magnetic devices, electric motors, radio transmitters or other sources of magnetic fields.

Storage media can be damaged by excessive heat, such as in a parked vehicle on a hot day.

### **814.4 SEIZING SMARTPHONES, CELL PHONES AND TABLETS**

Personal communication devices such as cell phones, PDAs or other handheld devices connected to any communication network must be handled with care to preserve evidence that may be on the device including messages, stored data and/or images.

- a. If the device is off, do not turn the device on.
- b. If the device is on, follow the best practice methods:
  1. Place the device in "Airplane" mode if possible.
  2. If the device is a newer Apple iOS and the screen is locked, the phone may be placed in "Airplane" mode by vertically swiping up from the bottom of the screen.
  3. If the device is unlocked and the previously mentioned option is unavailable, navigate to Settings and toggle "Airplane" mode on.
  4. Phones containing the Android OS can usually be placed in "Airplane" mode by holding down the power button and selecting Airplane mode.
- c. Seize the device's charger.
- d. Try to obtain the password or swipe code for the device and note it on the evidence bag and property receipt.

Once the above suggestions have been followed, if applicable, power down the device. Remove the battery if possible.

## **814.5 DIGITAL EVIDENCE RECORDED BY AGENTS**

Agents handling and submitting recorded and digitally stored evidence from digital cameras and audio or video recorders will comply with these procedures to ensure the integrity and admissibility of such evidence. Prior to using a digital camera and audio or video recorders, the agent shall make sure the storage media has been erased and/or formatted, and is ready for new evidence.

### **814.5.1 COLLECTION OF DIGITAL EVIDENCE**

Once evidence is recorded it shall not be erased, deleted or altered in any way prior to submission. All photographs taken will be preserved regardless of quality, composition or relevance. Video and audio files will not be altered in any way.

### **814.5.2 SUBMISSION OF DIGITAL MEDIA**

The following are required procedures for the submission of digital media used by cameras or other recorders:

- a. The recording media (smart card, compact flash card or any other media) shall be copied to storage media as soon as possible for submission into evidence.

Agents will copy the data from the media card to other storage media, such as a CD or DVD to be booked as evidence. The agent will make two (2) copies, one for evidence and one as a working copy.

### **814.5.3 DOWNLOADING OF DIGITAL FILES**

Digital information such as photos, video or audio files recorded on devices using internal memory must be downloaded to storage media as soon as possible and booked as evidence. The following procedures are to be followed:

- a. Files should not be opened or reviewed prior to downloading and storage.
- b. Where possible, the device should be connected to a computer and the files accessed directly from the computer directory or downloaded to a folder on the host computer for copying to the storage media.

### **814.5.4 PRESERVATION OF DIGITAL EVIDENCE**

- a. Trained agents are authorized to copy original digital media that is held as evidence. The original digital media shall remain in evidence and shall remain unaltered.
- b. Digital images that are enhanced to provide a better quality photograph for identification and investigative purposes must only be made from a copy of the original media.

- c. If any enhancement is done to the copy of the original, it shall be noted in the corresponding investigation report.

### **814.5.5 IMAGING OF DIGITAL EVIDENCE**

Due to the large volume of data that can be stored on digital media, it may be necessary for an agent to have digital evidence at their forensic workstation for an extended period of time during the forensic imaging process. The agent's forensic workstation shall be located inside a secured facility.

### **814.6 TRAINING AND QUALIFICATION**

Personnel assigned to perform digital forensic examination duties are required to successfully complete the POST-approved Computer Digital Evidence Recovery Course and/or Cellular Phone Forensics/Investigation Course, as applicable, unless they have previously completed training determined by the DLE Training Officer to be comparable.

## **815 Publications**

### **815.1 PURPOSE AND SCOPE**

This policy is intended to ensure the consistency and quality of the publications produced by this division, whether they are intended for internal or external distribution.

### **815.2 POLICY**

Publications, such as manuals, reports, bulletins and brochures, may be developed with the assistance of the Office of the Chief or independently by a bureau within the DLE. If developed independently by a bureau, an electronic copy of the final draft shall be submitted to the Office of the Chief. In all cases, the bureau shall provide all information necessary to complete the Publication Approval form (JUS 128).

The Office of the Chief shall edit and format the report as necessary, coordinate Division review and approval, complete the Department's publication process as specified in DOJAM § 03500 et seq. and, when appropriate, arrange to have the publication uploaded to the Department's Web site and/or Intranet.

If a specific publication date is required or desired, it is the bureau's responsibility to ensure that the final draft is received by the Office of the Chief a minimum of forty-five (45) business days prior to the requested publication date.

## **817 Legislatively Mandated Reports**

### **817.1 PURPOSE AND SCOPE**

The Department is legislatively mandated to provide a number of reports to the Governor and the Legislature. The purpose of this policy is to provide guidance to employees and programs within this division who are tasked with preparing these reports.

#### **817.1.1 COORDINATOR**

The Office of the Chief processes all legislatively mandated reports. The Coordinator is available to assist bureaus with content and formatting, serves as the liaison with the DOJ Mandated Reports Coordinator, secures Division and Department approval of the report, and arranges for publication.

### **817.2 POLICY**

Each bureau is responsible for the timely preparation of its own report(s). Seven (7) weeks before the mandated due date, paper and electronic copies of the completed report shall be submitted to the Coordinator with a memorandum from the Bureau Director indicating approval. The memorandum shall address the following:

- a. Funding source for printing.
- b. Printing cost, if known.
- c. Quantity of reports to be printed.
- d. Whether blanket approval is being requested (enables reprinting as necessary without repeating the approval process).

Upon receipt, the Coordinator shall review the report for content, formatting, and statute compliance and may make non-substantive, technical changes as necessary. The Coordinator shall then complete Publication Approval (JUS 128) and Legislatively Mandated Report Transmittal (JUS 129) forms, forward the package to the Chief for approval, and then to the DOJ Mandated Report Coordinator for review and processing. Once approved, the DOJ Mandated Report Coordinator will return the package for printing and distribution.

The Coordinator shall provide the DOJ Mandated Report Coordinator with the appropriate number of copies for distribution to the Governor and the Legislature. The originating bureau shall be responsible for distribution of all other documents to individuals/agencies other than the Governor and Legislature.

## **819 Forms**

### **819.1 PURPOSE AND SCOPE**

Forms designed by this division for its own use are identified by the letters “DLE” followed by a numerical designation. The Department’s forms policy may be found in DOJAM Chapter 4, section 1. This policy outlines the procedures for creating and updating DLE forms.

#### **819.1.1 DIVISION FORMS COORDINATOR**

The Division Forms Coordinator (Coordinator) in the Office of the Chief is the central contact person for the creation and modification of forms by this division and is also the Division’s liaison with the Department Forms Coordinator. The Coordinator maintains a database list of all current and past forms known to be used by this division, as well as hard and/or electronic copies of as many of these forms as can be obtained.

### **819.2 POLICY**

DLE forms may be designed by the Coordinator or by individual programs. Absent exigent circumstances, forms must be created using Adobe LiveCycle software. If a program creates or modifies a form, the form shall be submitted electronically to the Coordinator along with a Form Approval Request form (JUS 8762); if the Coordinator creates or modifies the form, he/she will prepare the JUS 8762. OPS will not accept a form without a JUS 8762 signed by the Coordinator.

Many Division and Department forms are posted to the Intranet under the Forms tab, with more becoming available as older forms are recreated electronically. Forms created for use by the public are posted to the Attorney General’s Internet site. Generally, forms that are to be posted to the Internet require legal review prior to submission to DAS.

Requests to modify Department forms (identified by the letters “JUS”) should be directed to the Department Forms Coordinator at DOJFormsCoordinator@doj.ca.gov.

#### **819.2.1 ACCESSIBILITY**

Pursuant to Government Code § 11135(d)(1)(2), electronic forms produced by this division shall comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and Part 1194 of Title 36 of the Code of Federal Regulations. This requirement applies to any form that will be posted to the Department’s Intranet and/or Internet or otherwise made available electronically.

*Chapter 9 - Custody*

**902 Custody Searches**

**902.1 PURPOSE AND SCOPE**

Refer to the *California Peace Officers Legal Sourcebook* (Policy Manual § 106.5.3) for issues relating to pat-down, booking and strip searches of pre-arraignment detainees.

## *Chapter 10 - Personnel*

### **1000 Recruitment and Selection**

#### **1000.1 PURPOSE AND SCOPE**

The rules governing employment practices for this department are maintained by DAS/Personnel Programs in the Department of Justice Hiring Policy - Supplemental Handbook, which is available on the Intranet.

#### **1000.4 HIRING CRITERIA**

Peace officer applicants must be 18 years of age or older and must be U.S. citizens or Resident Aliens who have applied for citizenship. Non-sworn applicants must be 18 years or older or have a valid work permit and must be U.S. citizens, Resident Aliens or have the necessary work visas as required by the Department of Homeland Security, U.S. Citizenship and Immigration Services. All applicants must have a high school diploma from an accredited institution, a GED, a California Proficiency Certificate and/or an Associate's or Bachelor's Degree from a U.S. accredited college or university.

Any applicant who meets one or more of the criteria in any of the following categories should be disqualified from the hiring process, unless the Chief grants an exception:

- a. General Behavior:
  - 1. Any demonstrated pattern of adverse behavior.
  - 2. Dishonesty during the background investigation/hiring process.
  - 3. Multiple law enforcement contacts/calls for service as a result of the applicant's behavior.
- b. Unlawful Drugs:
  - 1. Manufacturing, producing or selling any drug or other controlled substance.
- c. Marijuana/Cannabis Use:
  - 1. Any use within the past three years, or extensive use over a substantial period of time during the applicant's personal history.
- d. Illegal Drug Use:
  - 1. Any use while in a law enforcement or prosecutorial position, or in a position which carries with it a high level of responsibility or public trust.

2. Any use within the past five years if the drug use occurred after the applicant's 18th birthday and before his/her 23rd birthday.
3. Any use within the past ten years if the drug use occurred on or after the applicant's 23rd birthday.
4. For the purpose of this policy, illegal drug use is defined as illegal use of any of the following opiates, hallucinogens, depressants, and stimulants:
  - a. Heroin
  - b. Methadone
  - c. Cocaine (Crack)
  - d. Morphine
  - e. Ecstasy
  - f. Mescaline
  - g. Peyote
  - h. Opium
  - i. Quaaludes
  - j. LSD
  - k. Barbiturates
  - l. PCP
  - m. Percodan
  - n. Psilocybin (Mushroom)
  - o. Amphetamines
  - p. Methamphetamine (Crank/speed/ice)
- e. Driving Under the Influence:
  1. More than one arrest and/or conviction for reckless driving or driving under the influence of drugs and/or alcohol.
- f. Driver License Sanctions:

1. Revocation or suspension at the time of application.
- g. Failure to Appear/Pay (FTA/FTP):
1. Any combination of three or more FTA/FTP within five years of application.
- h. Employment:
1. Multiple disciplinary actions.
  2. Two or more terminations from employment.
  3. Termination or resignation in lieu of termination from a law enforcement agency.
- i. Financial:
1. A demonstrated pattern of collections, charge-offs, and/or bankruptcies.
- j. Military:
1. Multiple disciplinary actions.
  2. Any type of discharge other than honorable.
- k. Legal\*:
1. Felony conviction
  2. Misdemeanor conviction as an adult involving moral turpitude
  3. History of domestic violence/stalking
  4. History of sex crime(s)
  5. Conviction of any crime in another state/country that would meet the aforementioned criteria if the act was committed in California
  6. Commission of any undetected act that would meet the above criteria

\*Information obtained during the investigation that reveals commission of any act as a juvenile that would meet the aforementioned criteria if the offender was an adult shall be considered on a case-by-case basis.

## **1001 Background Investigation Process**

### **1001.1 PURPOSE AND SCOPE**

A background investigation is a requirement of the hiring process for all persons who apply for a position within the DLE. No person shall be employed within the DLE without successfully completing a full background investigation. The Office of the Chief (OC), Background Investigation Unit (BIU) shall be responsible for ensuring that all background investigations are conducted in a timely manner with competency and consistency.

Designated investigators shall receive training from the BIU on appropriate practices and procedures established by the Commission on Peace Officer Standards and Training (POST) and DLE policy. Each trained investigator is responsible for reviewing the POST Background Investigation Manual annually. A refresher course shall be provided to the investigators annually by the BIU.

If an employee is promoted or transferred from a position that previously required only a modified background to any other position within the DLE, a full background investigation shall be successfully completed prior to his/her appointment to the new position. It shall be the responsibility of the bureau's personnel analyst to contact the BIU and request a new background for the promoted employee. Background investigations shall be conducted only by the OC/BIU or the hiring bureau's staff members with approval from the OC/BIU.

#### **1001.1.1 FULL BACKGROUND INVESTIGATIONS**

A full background investigation shall be conducted prior to extending a formal offer of employment to a candidate for any position within the DLE, and shall consist of inquiries to the following:

- Criminal history
- Employment history
- Personal references
- Education
- Residence
- Financial and DMV checks
- Verification of vehicle insurance

These background investigations shall be conducted by OC/BIU in conjunction with retired annuitants, agents and contractors.

## 1001.2 BACKGROUND PROCEDURES

All requests for pre-employment background investigative services shall be initiated by the individual bureaus and submitted to the BIU. The requests shall be documented on a Request for Background Investigation memorandum and signed by the Bureau Director or his/her designee prior to the initiation of an investigation. Only a Director or his/her designee can authorize a background to be conducted.

The BIU is responsible for sending a background package to the applicant, which will contain all the necessary documentation the applicant needs to complete and return to the BIU.

All background investigations shall require the following forms to be completed and returned to the BIU by the applicant:

- Request for Live Scan Services Form (BCII 8016)
- POST Personal History Statement (POST 2.251)
- Notarized Authority to Release Information Form (DLE 201) (Two originals are required)
- Fingerprint Authorization and Release Form (JUS 8820)
- Employment Eligibility Verification Form (UCSIS Form I-9)
- Statement Concerning Your Employment in a Job Not Covered by Social Security (Form SSA-1945)

The applicant is required to obtain a credit report which encompasses the applicant's credit history from one of the three major credit reporting agencies, TransUnion, Equifax or Experian. The applicant will also be required to provide copies of their birth certificate, driver license, social security card, high school/college diplomas and obtain official college transcripts. The applicant will need to take the BCII 8016 form to a Live Scan location to be fingerprinted. The completed package shall be returned to the BIU. The BIU will assign a background investigation number and record all pertinent applicant information in the background tracking log, which contains:

- Candidate's name
- Classification
- Investigation number
- Requesting unit
- Date request was received by the BIU

- Assigned investigator's name/unit
- Date background was assigned to an investigator
- Due date
- Date completed background was returned to the BIU
- Candidate's office of preference (sworn only)
- Comment field

Once all initial information has been entered into the tracking system, a background investigator shall be assigned.

Regional offices may conduct background investigations on support staff applicants within their office, only after coordinating with the OC personnel analyst and the BIU, and providing them with the tracking log information.

Once a background investigator is assigned, a file folder and related materials shall be supplied to the investigator by the BIU. All documents obtained during the investigation shall be placed into the folder. Metal prong fasteners shall be used to attach the report and appendix on the right side of the folder. Working documents, applications, access waivers, etc., shall be attached on the left side of the folder.

An electronic copy of the investigation report shall be emailed to the BIU. Investigators shall not retain electronic copies, stored computer information, or paper copies of background investigation reports or other personal applicant information in any areas other than the official BIU investigation file.

Background investigation reports shall be reviewed and approved by the investigator's first- and second-level supervisors for completeness and accuracy. Following this review and approval, all background reports and files shall be returned to the BIU. The background investigation(s) and report(s) shall then be reviewed by the BIU for completeness, thoroughness, and conformity to POST guidelines and Division requirements. If the investigation and/or report are found to be incomplete or otherwise lacking, the file, in relevant part, shall be returned to the original investigator for completion. If the investigation(s) and/or report(s) are deemed complete, the file shall be routed to the appropriate Bureau Director for review and a hiring decision. After the Bureau Director or his/her designee has signed the report, it shall be returned to the BIU. The BIU shall send a disposition form (BIU 07-001) to the appropriate bureau personnel analyst.

Once the disposition has been received by the bureau's personnel analyst, a reporting date may be given to the applicant, if all other hiring requirements are met. At the completion of the hiring process, the background investigation file shall be maintained in the BIU.

## **1001.2.1 RELEASE OF CONFIDENTIAL INFORMATION**

All background information and reports shall be labeled "confidential." The investigation file and all information contained therein shall not be reviewed by, or disseminated to, anyone other than the Chief, Deputy or Assistant Chief, Bureau Director or Assistant Bureau Director. Subsequent to the conclusion of the background investigation, the investigators and any personnel involved in the hiring process shall not disclose any information received or discussed during any background investigation. Following the hiring process, all requests to review a completed file/report maintained by the BIU shall receive prior approval of the Chief, Deputy Chief or Assistant Chief. Access to the files shall be granted on a "need to know" basis as determined by the Chief, Deputy Chief or Assistant Chief or with the employee's written consent/waiver during a subsequent background investigation process.

All applicant requests for information related to information developed during the background investigation process shall be made through the employee's chain of command and forwarded from the employee's Bureau Director to the Litigation Coordinator, in accordance with the provisions of General Order 01-05.

Applicants not selected for employment after a background investigation has been conducted shall be notified in writing by the bureau's personnel analyst only. To ensure confidentiality and consistency in hiring decision notifications, any inquiries from the applicant that are received directly by any member of the hiring bureau shall be directed to the BIU.

## **1001.2.2 CONTRACT EMPLOYEES – BACKGROUND CHECKS**

Background investigations for contract employees (i.e., janitors, vendors, etc.) shall be coordinated by the BIU. A full or modified investigation shall be conducted according to the access level the contract employee will have. The investigations include a search of automated systems for a driver's record, wants and warrants, supervised release file, restraining orders, automated property, and firearms clearances. Fingerprint clearances shall be obtained through a search of records contained in the BCII and FBI files.

Modified background investigations for contract employees (i.e., janitors, vendors, etc.) shall consist of inquiries to the following:

- Criminal history
- Employment history
- Education
- Finances
- DMV record

- Proof of vehicle insurance

All other employees seeking permanent positions with the DLE or unsupervised access to a DLE facility shall undergo a full background investigation.

## **1003 Employee Fundraising Activity**

### **1003.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines for fundraising by Division of Law Enforcement employees.

### **1003.2 POLICY**

Employees are allowed to engage in specific fundraising efforts for the benefit of non-profit, charitable organizations, or to raise money for employee activities such as holiday parties or a memorial fund. Supervisors are responsible for ensuring that any fundraising activities are conducted by their staff in accordance with this policy.

### **1003.3 OBTAINING APPROVAL**

Fundraising activities as described in this policy require the prior approval of the appropriate Bureau Director. To obtain approval, complete the Request for DOJ Fund-Raising Approval form (JUS 8718) and submit it via the chain of command to the appropriate Bureau Director a minimum of one week prior to the event. A copy of the form, approved or disapproved, shall be returned to the requesting employee. The bureau shall maintain a copy of this form for one year from the date of the event.

### **1004.3 RAFFLES AND LOTTERIES**

Raffles and lotteries are unlawful pursuant to Penal Code § 319 and, therefore, are not permitted.

## **1010 Reporting of Employee Convictions**

### **1010.1 PURPOSE AND SCOPE**

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

The ATC SAS shall submit in a timely manner a notice to the Commission on Peace Officer Standards and Training (POST) of any appointment, termination, reinstatement, name change or status change regarding any peace officer, reserve peace officer, public safety dispatcher and records supervisor employed by this department (11 CCR § 9040).

The PSG SAC shall submit in a timely manner a notice to POST of a felony conviction or Government Code § 1029 reason that disqualifies any current peace officer employed by this department or any former peace officer if this department was responsible for the investigation (11 CCR § 9041).

### **1010.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS**

California Penal Code § 12021(c)(1) prohibits any person convicted of certain offenses including, but not limited to Penal Code §§ 273.5, 273.6 and 646.9, from lawfully possessing a firearm. Pursuant to the Federal Domestic Violence Gun Control Act (18 U.S.C. § 921(a) and 18 U.S.C. § 922(d)), any person who has been convicted of a misdemeanor domestic violence offense is prohibited from possessing any firearm or ammunition. Because such offenses may include any conviction involving 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), employees shall promptly report any and all convictions of such nature.

Federal law also prohibits firearm possession by any individual who is the subject of a domestic violence restraining order. While this federal restriction does not apply to temporary restraining orders (18 U.S.C. § 922(d)(8)), California Family Code § 6389 does prohibit any individual from lawfully possessing a firearm if they are currently the subject of a domestic violence restraining order (including temporary and emergency orders). As such, employees shall promptly notify the Department if they become the subject of any temporary, emergency or permanent domestic restraining order.

### **1010.3 OTHER CRIMINAL CONVICTIONS**

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or *nolo contendere* plea.

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

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

#### **1010.4 REPORTING PROCEDURE**

All employees of this department and all retired agents with a CCW endorsement shall promptly notify their immediate supervisor (or the PSG SAC in the case of retired agents) in writing of any past or current criminal arrest or conviction regardless of whether or not the matter is currently on appeal and regardless of the penalty or sentence, if any.

All sworn employees and all retired agents with a CCW endorsement shall further promptly notify their immediate supervisor (or the PSG SAC in the case of retired agents) in writing if the employee becomes the subject of a domestic violence restraining order issued by a court of competent jurisdiction.

A supervisor receiving such notification from his/her employee shall forward the written notice via the chain of command to the Bureau Director. Upon receipt, the Bureau Director will promptly notify the Deputy or Assistant Chief.

Any employee whose criminal conviction unduly restricts or prohibits that employee from fully and properly performing his/her duties may be disciplined including, but not limited to being placed on administrative leave, reassignment and/or termination.

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

#### **1010.5 PROCEDURE FOR RELIEF**

Pursuant to Penal Code § 12021(c)(2), a peace officer may petition the court for permission to carry a firearm following a conviction under state law. Federal law, however, does not provide for any such similar judicial relief and the granting of a state court petition under Penal Code § 12021 will not relieve one of the restrictions imposed by federal law.

Therefore, relief for any employee falling under the restrictions imposed by federal law may only be obtained by expungement of the conviction. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

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

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

### **1010.6 SUSPECTED CRIMINAL ACTIVITY**

If an employee is contacted by any law enforcement agency because he/she is suspected of engaging or having been engaged in any criminal conduct or act, he/she shall immediately, but no later than 24 hours after the contact, report the incident via the chain of command to his/her Bureau Director. The Bureau Director shall report the incident to the Deputy or Assistant Chief immediately, but no later than 24 hours after the contact.

### **1010.7 FRATERNIZATION WITH KNOWN CRIMINAL SUSPECTS**

No employee shall fraternize with known criminal suspects. For the purpose of this policy, criminal suspects are individuals who are suspected of being or having been involved in:

- a. The actual or attempted planning, organizing, financing or commission of criminal acts,  
or
- b. Criminal activities with known or suspected crime figures.

## **1012 Alcohol and Drug Use**

### **1012.1 PURPOSE AND SCOPE**

The intent of this policy is to deter the misuse or abuse of legal or illegal substances that create a threat to the safety and health of any employee or member of the public. The California Department of Justice discourages alcohol and drug abuse and strives to achieve a work force free from the influence of drugs and alcohol.

### **1012.2 GENERAL GUIDELINES**

Department of Personnel Administration Rule 599.960(b)(2) provides that a State employee who is on duty or on stand-by for duty shall not use or be under the influence of alcohol to the extent that would impede the employee's ability to perform his/her duties safely and effectively.

Employees of this division, with the exception of the undercover exemption listed below, shall not drive a state vehicle with any alcohol or controlled substances in their system. No alcoholic beverage shall be consumed during duty hours, work breaks, or outside of duty hours prior to driving a state-owned or -leased vehicle, or a vehicle rented while on official state business.

The consumption of alcohol or other intoxicants is generally prohibited by on-duty personnel except as necessary in the performance of an official special assignment. Personnel who consume alcohol as part of a special assignment with the prior permission of the SAC/SAS shall not do so to the extent of impairing on-duty performance. The SAS shall ensure that agents who consume alcohol while acting in an undercover capacity do not participate in enforcement actions involving arrests, search or seizure, nor drive a vehicle while under the influence of alcohol at the conclusion of an undercover operation.

Employees who have consumed an amount of an alcoholic beverage or taken any drugs that would tend to adversely affect their senses or judgment shall not report for duty. Employees shall notify the SAC or appropriate supervisor as soon as they are aware that they will not be able to report to work. If an employee is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner.

No employee shall use any controlled substances except as prescribed by and under the direction of a licensed physician. No employee shall simulate using or ingesting drugs. If, by force or serious threat during a criminal investigation, an employee must use or simulate using a drug, he/she shall immediately report the incident to his/her immediate supervisor. The actual or simulated use shall be documented in the related investigation report. A memorandum detailing the circumstances shall be completed by the employee and submitted via the chain of command to their Bureau Director. The appropriate supervisor or designee shall immediately take the employee for medical examination or treatment if necessary. Routine pursuit of an investigation is never justification for using or simulating the use of a controlled substance.

Consumption of alcoholic beverages by Division employees during Department- or Division-sponsored or other off-duty special functions (i.e. award ceremonies, graduations, retirements, etc.) is at the employee's discretion. The use of alcohol prior to driving a personal vehicle is discouraged; driving a State- or federally- funded vehicle while under the influence of alcohol is prohibited.

### **1012.2.1 PURCHASE OR POSSESSION OF DRUGS OR ALCOHOL ON DUTY**

Department employees shall not purchase or possess alcohol or other controlled substances on State property, at work, or while on duty except in the performance of a special assignment as described in Policy Manual § 1012.2.

### **1012.2.2 USE OF PRESCRIBED MEDICATIONS**

Any employee who is required to take any medication with side effects which might impair his/her ability to fully and safely perform all requirements of the position shall report the need for such medication to the immediate supervisor prior to commencing any on-duty status. No employee shall be permitted to work or drive a department-owned or department-leased vehicle while taking such potentially impairing medication without a written release from his/her physician.

Possession of medical marijuana or being under the influence of marijuana on- or off-duty is prohibited and may lead to disciplinary action. See section 1012.2.4.

### **1012.2.3 ENGAGING IN SCIENTIFIC OR MEDICAL PROJECTS**

No employee shall engage in any type of scientific or medical experiment in connection with controlled substances except as recommended by their Bureau Director and authorized by the Deputy or Assistant Chief.

### **1012.2.4 MARIJUANA**

Although state law permits the use of marijuana by adults, it does not require employers to permit marijuana use by employees or affect drug-free workplace policies (Health & Safety Code § 11362.45 (f)). In accordance with the requirements of California's Drug-Free Workplace Act of 1990 and the federal Drug-Free Workplace Act of 1988, the State of California remains a drug-free employer. Marijuana is a Schedule I controlled substance, and as such its medicinal or recreational use by DOJ employees is not permitted.

## **1012.3 EMPLOYEE ASSISTANCE PROGRAM**

The Department recognizes that individuals may experience difficulties related to their work or their relationships with family, co-workers, supervisors, managers, or members of the public.

The Department offers an Employee Assistance Program for all employees to receive support in handling personal or work-related difficulties that may arise.

The Employee Assistance Program is available to assist employees who wish to seek help for alcohol and drug problems. There is also available a variety of insurance coverage which provide treatment for drug and alcohol abuse. Employees may contact the DAS/Personnel Programs, their insurance provider, or the Employee Assistance Program for additional information. Employees who experience drug or alcohol problems are encouraged to seek referral for rehabilitation through the Employee Assistance Programs or their insurance provider. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

In addition to the Employee Assistance Program, the Division's Peer Support Program is available to all Division employees. Refer to the Peer Support Program policy, found in Policy Manual § 222.

## **1014 Sick Leave Policy**

### **1014.1 PURPOSE AND SCOPE**

Employees of this department are provided with a sick leave benefit that gives them continued compensation during times of absence due to personal or family illness. The number of hours available is detailed in the employee's respective personnel manual or applicable collective bargaining agreement. Employees may also be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 CFR 825). Refer to the Department's Attendances and Absences policy, found in DOJAM §§ 06400 et seq.

## **1016 Communicable Diseases**

### **1016.1 PURPOSE AND SCOPE**

Refer to DOJAM §§ 101110-101117, the BFS Policy and Procedures Manual, and DLE Safety Bulletin 04-02 for policies and procedures intended to minimize the risk of contracting and/or spreading communicable diseases.

## **1018 Smoking Policy**

### **1018.1 PURPOSE AND SCOPE**

This policy establishes limitations on the use of tobacco products by employees and others while on duty or while in Department facilities or vehicles.

### **1018.2 POLICY**

Smoking tobacco products is not permitted inside Department facilities or any Department vehicle. It shall be the responsibility of each employee to ensure that no person under his/her supervision smokes any tobacco product inside Department facilities and vehicles.

No person shall smoke tobacco products within 20 feet of a main entrance, exit, or operable window of any public building (including any Department facility), or buildings on the campuses of the University of California, California State University and California community colleges, whether present for training, enforcement, or any other purpose (Government Code § 7596 et seq.).

## **1020 Personnel Complaint Procedure**

### **1020.1 PURPOSE AND SCOPE**

The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members and employees of this department.

#### **1020.1.1 PERSONNEL COMPLAINTS DEFINED**

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Inquiries about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered complaints.

This policy shall not apply to any interrogation, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of an employee in the normal course of duty, by a supervisor or any other employee, nor shall this policy apply to an investigation concerned solely and directly with alleged criminal activities (Cal. Govt. Code 3303(i)).

Personnel Complaints shall be classified in one of the following categories:

Category I: Complaints alleging misconduct involving actual or attempted physical contact; or criminal, immoral, or racial misconduct by an employee. Complaints of this nature may include, but are not limited to:

- Excessive use of force
- Theft
- Dishonesty
- Misuse of State equipment or resources
- Racial/sexual misconduct

Category II: Complaints alleging verbal misconduct or neglect of duty. Complaints of this nature may include, but are not limited to:

- Verbal discourtesy (including profanity)
- Improper shouting, sarcasm
- Minor policy and procedure violations

- Minor neglect of duty

Complaints against peace officers by members of the public which are determined to be frivolous are defined in the Code of Civil Procedure § 128.5. A complaint may be considered frivolous if it is completely without merit or if it was made for the sole purpose of harassing an opposing party.

## **1020.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS**

### **1020.2.1 AVAILABILITY OF COMPLAINT FORMS**

Personnel Complaint forms (DLE 144) will be maintained on the DLE Intranet.

### **1020.2.2 SOURCE OF COMPLAINTS**

- a. A Department employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- b. A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.
- c. Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

### **1020.2.3 ACCEPTANCE OF COMPLAINTS**

A complaint may be filed in person, in writing, or by telephoning the Department. Although not required, every effort should be made to have the complainant appear in person. Any personnel complaint made by a member of the public against an employee of this division shall be documented on a DLE 144 form. The completed DLE 144 shall be placed in a sealed envelope, marked "confidential," and immediately forwarded to the Professional Standards Group. Complaints against BMFEA employees should be submitted to the BMFEA Director via the chain of command; the BMFEA Director and Chief of Investigations will determine if a complaint is to be forwarded to the PSG.

The following should be considered before taking a complaint:

- a. Complaints shall not be prepared unless the alleged misconduct or job performance is of a nature which, if true, would normally result in disciplinary action.
- b. When an uninvolved supervisor or the regional manager determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper/improper implementation of Department policy or procedure, a complaint need not be taken.

- c. When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Personnel Complaint form.
- d. Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

## **1020.2.4 COMPLAINT DOCUMENTATION**

Formal complaints of alleged misconduct shall be documented by a supervisor on a personnel complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

When a Personnel Complaint form is completed in person, the complainant should legibly write a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. The employee taking the complaint shall read aloud to the complainant the advisement that appears in bold print on the DLE 144 and shall make a note of this on the form. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement; otherwise, the employee shall write "Complainant refused to sign" on the signature line. The complainant should be provided with a copy of his/her own original complaint per Penal Code § 832.7.

If a complaint is received by mail or fax, the employee receiving the complaint shall contact the PSG SAC to advise him/her that a complaint has been received. The employee shall place the completed form in a sealed envelope marked "confidential" and forward it to the PSG. Within five working days, PSG shall mail a completed DLE 144, along with an addressed return envelope, to the complainant with a request for him/her to review the form, read the advisement, and sign, date and return the form.

If a DLE 144 is received by mail or fax completed and signed by the complainant, the employee receiving the form shall sign, date and place it in a sealed envelope marked "confidential" and forward it to PSG.

If the complaint is received by telephone, the employee receiving the call shall complete an original DLE 144 and send it to PSG in a sealed envelope marked "confidential." Within five working days, PSG shall mail the completed DLE 144 to the complainant with a request to review it for accuracy, read the advisement, sign and return the form.

If the complainant chooses to remain anonymous, the employee receiving the telephone call will fill out the DLE 144 to the best of his/her ability. Since subsequent contact with the complainant

will generally be difficult, an effort shall be made to obtain sufficient information to allow a determination of the charges. The employee receiving the complaint shall indicate "anonymous complaint" in the space provided for the complainant's signature. The DLE 144 shall then be forwarded to PSG in a sealed envelope marked "confidential."

Immediately after receiving the DLE 144 and entering the information into the Citizen's Complaint Log, PSG shall notify the accused employee that a complaint has been received and an investigation initiated. This notification shall include a description of the alleged misconduct. If the accused employee is not identified in the complaint, the employee shall be notified and given a copy of the original complaint as soon as the agent establishes his/her identity.

### **1020.3 SUPERVISOR RESPONSIBILITY**

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation. Moreover, supervisors shall also maintain the ability to engage in the interrogation of an employee in the normal course of duty, counseling, instruction, or informal verbal admonishment, or other routine or unplanned contact (Cal. Govt. Code 3303(i)).

The supervisor shall be responsible for the following:

- a. A supervisor receiving a formal complaint involving allegations of a potentially serious nature shall ensure that the regional manager, Bureau Director and Deputy or Assistant Chief are notified via the chain of command as soon as practicable.
- b. A supervisor dealing with an accused employee shall ensure that the procedural rights of the employee are followed pursuant to Government Code § 3303, et seq.
- c. When the nature of a personnel complaint relates to sexual, racial, ethnic, or other forms of prohibited harassment or discrimination, the supervisor receiving the complaint shall promptly notify the EER&R Office and the Chief, via the chain of command, and await direction regarding their role in investigation and/or addressing the complaint.

### **1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature or when circumstances practically dictate that it would impose an unreasonable risk to the Department, the employee, other employees or the public, a supervisor may assign the accused employee to inactive duty pending completion of the investigation or the filing of administrative charges.

#### **1020.4.1 ADMINISTRATIVE LEAVE**

An employee placed on administrative leave may be subject to the following guidelines:

- a. Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.

- b. An employee placed on administrative leave may be required by a supervisor to relinquish any badge, departmental identification, assigned weapon(s) and any other departmental equipment.
- c. An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.
- d. An employee placed on administrative leave may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered.
- e. At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to their regularly assigned shift with all badges, identification card and other equipment returned.

## **1020.5 ALLEGATIONS OF CRIMINAL CONDUCT**

Where an employee of this department is accused of potential criminal conduct, a separate supervisor or agent shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of serious criminal allegations, the Chief may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to a criminal investigator.

No information or evidence administratively coerced from an employee may be provided to a criminal investigator.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a peace officer, which has not led to a conviction; however, no disciplinary action, other than paid administrative leave, shall be taken against the accused employee based solely on an arrest or crime report (Labor Code § 432.7(b)). An independent administrative investigation shall be conducted based upon the allegations in the report in accordance with department policy.

## **1020.6 ADMINISTRATIVE INVESTIGATION OF COMPLAINT**

Whether conducted by a supervisor or an assigned member of the Professional Standards

Group, the following procedures shall be followed with regard to the accused employee(s):

- a. The assigned agent shall contact the complainant within five working days of receiving the case.
- b. Interviews of accused employees shall be conducted during reasonable hours and, if the employee is off-duty, the employee shall be compensated (Government Code § 3303(a)).
- c. No more than two interviewers may ask questions of an accused employee (Government Code § 3303(b)).
- d. Prior to any interview, an employee shall be informed of the nature of the investigation (Government Code § 3303(c)).
- e. All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated (Government Code § 3303(d)).
- f. No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions directly related to the investigation may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal agent (Government Code § 3303(e)).
- g. Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview (Government Code § 3303(g)).
- h. If the allegations involve potential criminal conduct, the employee shall be advised of his/her Constitutional rights pursuant to *Lybarger* (*Lybarger v. City of Los Angeles* (1985) 40 Cal.3d 822, 827). This admonishment shall be given administratively whether or not the employee was advised of these rights during any separate criminal investigation. (Government Code § 3303(h)).
- i. All employees subjected to interviews that could result in punitive action shall have the right to have an uninvolved representative present during the interview (Government Code § 3303(i)).
- j. All employees shall provide complete and truthful responses to questions posed during interviews.
- k. No employee 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).

## 1020.6.1 ADMINISTRATIVE SEARCHES

An employee of this department may be administratively ordered to submit to a blood, breath, or urine test for alcohol and drugs under any of the following circumstances:

- When the employee, whether on or off duty, is involved in a shooting or police related death.
- When the employee is involved in an injury or fatal accident while on duty.
- When the employee is involved in an injury or fatal accident while operating any State owned vehicle whether on or off duty.
- When the employee is found to be exhibiting objective symptoms of intoxication or drug influence while on duty.

The use of compelled testing results shall be restricted to the administrative investigation. Any employee may be compelled to disclose personal financial information pursuant to proper legal process if such information tends to indicate a conflict of interest with official duties, or if the employee is assigned to or being considered for a special assignment with a potential for bribes (Government Code § 3308).

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Department.

Assigned lockers and storage spaces may only be administratively searched in the employee's presence, with the employee's consent, with a valid search warrant or where the employee has been given reasonable notice that the search will take place (Government Code § 3309). All other departmentally assigned areas (e.g., desks, office space, assigned vehicles) may be administratively searched by a supervisor, in the presence of an uninvolved witness, for non-investigative purposes (e.g., obtaining a needed report or radio). An investigative search of such areas shall only be conducted upon a reasonable suspicion that official misconduct is involved.

## 1020.6.2 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

**Introduction** - Include the identity of the employee(s), the identity of the assigned agent(s), the initial date and source of the complaint.

**Synopsis** - Provide a very brief summary of the facts giving rise to the investigation.

**Summary Of Allegations** - List the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence As To Each Allegation** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee 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 (recordings, photos, documents, etc.) should be attached to the report.

## **1020.7 DISPOSITION OF PERSONNEL COMPLAINTS**

Each allegation shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel. Complaints which are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.5(c)).

**Exonerated** - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

**Not Sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct. If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

### **1020.7.1 DISCIPLINARY ACTION**

A sustained allegation may result in one of the following types of disciplinary action:

- a. **Informal** - Used by a supervisor/manager and an employee to plan the change(s) that must take place to correct the employee's conduct or performance within a specified time frame. The employee is not entitled to representation unless adverse action is contemplated. The primary forms of informal disciplinary action are corrective interviews and corrective memorandums.
  1. The Bureau Director's approval must be obtained by the regional manager before informal disciplinary action may be initiated.
  2. The following language shall be incorporated into all corrective memorandums: "If you are experiencing personal problems that may be affecting your performance, you are encouraged to take advantage of the Department's Employee Assistance Program (EAP). Your conduct documented in this incident is unacceptable and will

not be tolerated by the Department. If you engage in similar conduct in the future, the Department will take adverse action against you based on the incident(s) cited in this memorandum as well as any future incident(s). A copy of this memorandum will be placed in your personnel file. After [one (1) year to three (3) years - management determines the length of time] you can request from appropriate management [DLE Facility or Headquarters, depending on who issued the memo] that this document be removed from your personnel file, at which time your request will be considered. This incident will be noted in your next performance evaluation." The employee must sign and date the memorandum acknowledging receipt.

3. Copies of all corrective memorandums shall be forwarded to the appropriate Bureau Director for review prior to being issued. The Bureau Director shall ensure that the original is forwarded to the appropriate personnel analyst for inclusion in the employee's unofficial personnel file.
- b. **Formal** - Used when informal disciplinary action has not corrected an employee's conduct or performance, or when there has been a serious infraction of law, rules, or standards. A formal disciplinary action, known as an adverse action, is recorded in the employee's official personnel records and may take one of the following five forms:
1. Formal letter of reprimand.
  2. Suspension without pay.
  3. Reduction of pay within the class.
  4. Demotion to a lower class.
  5. Dismissal from State service.

In addition, a supervisor may deny merit salary adjustments and special in-grade salary adjustments.

When regional management or a bureau program determines that formal disciplinary action is appropriate, they must first obtain approval from the Bureau Director. The Chief shall submit the proposed adverse action request to the Office of the Chief. If approved, the Chief shall forward the request to PSG for processing. PSG shall maintain a file of completed adverse actions.

## **1020.8 COMPLETION OF INVESTIGATIONS**

Every agent or supervisor assigned to investigate a personnel complaint shall proceed with due diligence. Recognizing that factors such as witness availability and the complexity of allegations will affect each case, every effort should be made to complete each investigation within a reasonable period following receipt. If the nature of the allegations dictates that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed or formally

charged. If the complaining party is charged with a criminal offense associated with this investigation, then the investigation may be suspended until the completion of the criminal trial. The investigation shall not be delayed or suspended because of any concurrent civil proceeding to which the complainant is a party except as advised by a Department attorney or requested by the accused employee awaiting representation. Any delay or suspension of an investigation requires the approval of the Deputy or Assistant Chief.

Upon completion, the report should be forwarded through the chain of command to the Bureau Director and Deputy or Assistant Chief.

Once received, the Chief may accept or modify the classification and recommendation for disciplinary action contained in the report. After the Deputy or Assistant Chief's review, if corrective action is determined to be appropriate, the employee's supervisor shall be directed to take the appropriate action against the employee. If the Deputy or Assistant Chief determines that a formal adverse action is appropriate, the PSG will prepare an adverse action package.

Within 30 days of the final review by the Chief, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings; however, will not disclose the amount of discipline, if any imposed. The complaining party should also be provided with a copy of his/her own original complaint (Penal Code § 832.7).

Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Chief to discuss the matter further.

## **1020.8.1 CONFIDENTIALITY OF PERSONNEL FILES**

All investigations of personnel complaints against peace officers of this department shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.

In the event that an accused employee (or the representative of such employee) knowingly makes false representations regarding any internal investigation and such false representations are communicated to any media source, the Department may disclose sufficient information from the employee's personnel file to refute such false representations (Penal Code § 832.5).

All formal personnel complaints shall be maintained for a period of no less than five years (Penal Code § 832.5). All non-citizen (e.g., those that originate internally) initiated complaints shall be maintained no less than two years (Government Code § 34090 et seq.). After the minimum retention period, all frivolous, exonerated, or unfounded complaints and investigation files shall be destroyed with the following exceptions:

- a. Records of complaints that are subject to civil litigation or criminal proceedings shall be retained until final adjudication.

- b. Records of sustained and not sustained complaints shall be retained as long as the individual is employed by the Department. These records shall be destroyed five years after the employee has permanently separated from the Department.

Every investigation that results in a formal letter of reprimand, suspension, loss of pay, demotion in rank, or dismissal shall be documented in a Notice of Adverse Action. If the investigation results in informal, remedial or corrective action, the corrective documentation shall be placed in the employee's official and/or regional office/lab personnel files, as appropriate, and retained according to the employee's bargaining unit contract. Complaints which are unfounded, exonerated or not sustained shall be maintained by the Professional Standards Group apart from the employee's personnel file.

## **1022 Seat Belts**

### **1022.1 PURPOSE AND SCOPE**

The use of seat belts and other safety restraints significantly reduces the chance of death or injury in case of a traffic collision. This policy establishes guidelines for seat belt and child safety seat use to promote maximum operator and passenger safety, thus reducing the possibility of death or injury as the result of a motor vehicle crash. This policy will apply to all employees operating or riding in Department vehicles (Vehicle Code § 27315.5).

### **1022.2 WEARING OF SAFETY RESTRAINTS**

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

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

#### **1022.2.1 TRANSPORTING CHILDREN**

Children under the age of 6 or who weigh less than 60 pounds should be transported in compliance with California's restraint system requirements (Vehicle Code § 27360).

A child may be transported by sworn personnel without the use of a child passenger restraint system in an authorized emergency vehicle if a child passenger restraint system is unavailable and the child is secured by a seat belt (Vehicle Code § 27363(b) and Vehicle Code § 165).

Members should deactivate, if available, the passenger side airbag when appropriate, such as when transporting a rear-facing infant or child in the front seat.

#### **1022.4 INOPERABLE SEAT BELTS**

No person shall operate a Department vehicle in which the seat belt in the driver's position is inoperable. No person shall be transported in a seating position in which the seat belt is inoperable.

No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts, except for vehicle maintenance and repair staff who shall do so only with the express authorization of the Chief.

Employees who discover an inoperable restraint system shall report the defect to the appropriate supervisor. Prompt action will be taken to replace or repair the system.

## **1025 Performance Evaluations**

### **1025.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines for the evaluation of each employee's conduct and performance during probation and annually after probation has been successfully completed.

### **1025.2 ANNUAL PERFORMANCE APPRAISALS**

Annual Performance Appraisal forms for sworn and civilian employees (JUS 141, 142, 143 and 502) are maintained on the DOJ Intranet. It is the responsibility of the employee's immediate supervisor to complete the appropriate appraisal form annually and discuss the appraisal with the employee in a timely manner. The completed annual performance report must be forwarded to bureau headquarters after review by the regional manager. Regional managers are ultimately responsible for implementing an annual performance appraisal schedule for the employees in their respective offices/labs and ensuring that timely performance reports are completed on all employees. If an employee is off work for a majority of the evaluation period, an annual appraisal is not required. However, a memo should be placed in the employee's personnel file stating the reason an appraisal was not completed for that time period. Each year when completing an employee's annual performance appraisal, the supervisor is expected to:

- a. Review the employee's training file for completeness. In addition, the training files for peace officers must be checked for compliance with POST training requirements.
- b. Review the employee's personnel file with the employee and purge inappropriate material in accordance with the timelines specified in Policy Manual § 1026.7.1.
- c. Review and update, if necessary, the employee's Emergency Notification Card.
- d. Check the employee's driving record and license status, if the employee's position requires driving.
- e. Inspect equipment and vehicle assigned to the employee, if applicable, and update the Individually Assigned Equipment Inventory form (JUS 1444). The results of these checks will be documented and attached to the annual performance report.

### **1025.3 PROBATION REPORTS**

Employees on probation shall have regular probation reports completed by their immediate supervisor to document progress or necessary modifications in behavior and/or work product before permanent civil service status is granted.

Bureau headquarters will send probation report forms to each regional office or unit approximately one month prior to their due date. However, it is the responsibility of the

immediate supervisor to request such forms if they are not received and to ensure that the reports are completed and discussed with the employee at the time intervals designed for that particular classification. Regional managers are responsible for ensuring that their supervisors prepare probation reports in a timely manner. The completed probation reports must be forwarded to bureau headquarters after review by the regional manager.

The probationary period for an employee may be extended if the employee is off duty for a significant amount of time during the probation period (i.e., off duty because of a work-related injury, maternity leave, military leave, etc.). If a supervisor wishes to extend an employee's probation period, he/she should contact the personnel analyst in bureau headquarters to discuss and initiate the necessary procedures.

## **1026 Personnel Files**

### **1026.1 PURPOSE AND SCOPE**

This section governs the maintenance, retention and access to personnel files in accordance with established law. It is the policy of this department to maintain the confidentiality of peace officer personnel records pursuant to Penal Code § 832.7.

### **1026.2 PEACE OFFICER PERSONNEL FILES DEFINED**

Pursuant to Penal Code § 832.8, peace officer personnel records shall include any file maintained under an individual agent's name relating to:

- a. Personal data, including marital status, family members, educational and employment history, or similar information.
- b. Medical history including medical leave of absence forms, fitness for duty examinations, workers' compensation records, medical releases and all other records which reveal an employee's past, current or anticipated future medical conditions.
- c. Election of employee benefits.
- d. Employee advancement, appraisal, or discipline.
- e. Complaints, or investigations of complaints, concerning an event or transaction in which the agent participated, or which the agent perceived, and pertaining to the manner in which the agent performed official duties.
- f. Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

### **1026.3 EMPLOYEE RECORD LOCATIONS**

Employee records will generally be maintained in any of the following:

**Official Personnel File** - That file which is maintained by the Office of Human Resources as a permanent record of employment with this department.

**Unofficial Personnel File** - That file which is maintained at the employee's regional office/lab containing copies of documents submitted for inclusion in the official personnel file, log entries, and written comments, including actual performance evaluations, made by a supervisor concerning the conduct of an employee of this department.

**Training File** - Any file which documents the training records of an employee.

**Internal Affairs Files** - Those files that contain complaints of employee misconduct and all materials relating to the investigation into such allegations, regardless of disposition.

**Firearms Qualification File** - That file maintained by the Rangemaster which contains firearms qualification records to document proficiency of agents assigned to that office.

**Background Files** - Those files compiled and maintained exclusively by the PSG containing materials relating to background investigations.

## **1026.4 CONFIDENTIALITY OF ALL PERSONNEL FILES**

Pursuant to Penal Code § 832.7, all of the above-defined personnel records, with the exception of the firearms qualification file, shall be deemed confidential and shall not be subject to disclosure except pursuant to the discovery procedures set forth in Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by the Chief Deputy Attorney General, Attorney General or other attorneys or representatives of the State in connection with official business.

## **1026.5 REQUESTS FOR DISCLOSURE**

Only written requests for the disclosure of any information contained in any peace officer personnel record will be considered. Since the format of such requests may be strictly governed by law with specific responses required, all such requests shall be promptly brought to the attention of the DLE Litigation Coordinator or BMFEA Chief of Prosecutions.

Upon receipt of any such request, the responsible person shall notify the affected employee(s) as soon as practicable that such a request has been made (Evidence Code § 1043(a)).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this will require assistance of approved and available legal counsel.

All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

### **1026.5.1 RELEASE OF CONFIDENTIAL INFORMATION**

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential peace officer personnel file shall be disclosed to any unauthorized person(s) without the expressed prior consent of the involved agent or written authorization of the Chief or his or her designee.

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone

number of any member of this department may be guilty of a misdemeanor (Penal Code § 146(e))

Pursuant to Penal Code § 832.7(e), the disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the agent who is the subject of the investigation (or the agent's representative) publicly makes a statement which is published in the media and which the agent (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7(d)).

## **1026.6 EMPLOYEE ACCESS TO OWN FILE**

Any employee may request access to his/her own personnel file(s) during the normal business hours of the individual(s) responsible for maintaining such file(s). Any employee seeking the removal of any item from his/her personnel file shall file a written request to the Bureau Director through the chain of command. The Department shall thereafter remove any such item if appropriate or within 30 days provide the employee with a written explanation why the contested item will not be removed (Government Code 3306.5). If the contested item is not removed from the file, the employee's request and the Department's written response shall be retained with the contested item in the employee's personnel file.

Employees may be restricted from accessing files containing any of the following information:

- a. Ongoing Internal Affairs investigations to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the employee of the intent to discipline.
- b. Confidential portions of Internal Affairs files which have not been sustained against the employee.

An access log shall be located on the left-hand side of every unofficial personnel file. Whenever a personnel file is viewed, the person accessing the file shall sign the log.

## **1026.7 TYPES OF PERSONNEL FILES**

### **1026.7.1 OFFICIAL PERSONNEL FILE**

The official personnel file, which is maintained by DAS, should contain, but is not limited to, the following: appointment documents, probationary reports, performance appraisals, letters of commendation, attendance records, health benefits information, and beneficiary designations. Specific documents included in the file include but are not limited to the following:

- a. Standard State Application (STD 678).
- b. Personnel Action Request (STD 680) and Employee Action Request (STD 686).
- c. Monthly Employee Leave Record (STD 642).
- d. Oath of Allegiance and Declaration of Permission to Work for Persons Employed by the State of California (STD 689), Annual Performance Appraisals, Report of Performance for Probationary Employee (STD 636), and military service information.
- e. Health benefits forms (HBD-12, STD 691, STD 700), Deferred Compensation (DCP 227), Designation of Person Authorized to Receive Warrants (STD 243), Authorization to Use Privately Owned Vehicle in State Service (STD 261).
- f. Accident Report (STD 268).
- g. Authorization for Extra Hours (STD 682).
- h. Absence and Additional Time Worked (JUS 634).
- i. Grievances.
- j. Disciplinary action.
  - 1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained in the individual employee's official personnel file at least two years (Government Code § 34090).
  - 2. Disciplinary action resulting from a sustained citizen's complaint shall be maintained in the individual employee's official personnel file at least five years (Penal Code § 832.5).
  - 3. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's official personnel file, but will be separately maintained for the appropriate retention period in the internal affairs file.
- k. Adverse comments may be retained in the Department official personnel file or Division file after the employee has had the opportunity to read and initial the comment and for a period up to two years (Government Code § 3305).
  - 1. Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such adverse comment within 30 days (Government Code § 3306).
  - 2. Any such employee response shall be attached to and retained with the original adverse comment.

3. If an employee refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.
- l. Commendations shall be retained in the employee's Department file, with a copy provided to the involved employee.
- m. Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status.

Medical and workers' compensation information is protected under the Health Information Portability and Accountability Act and must be protected from improper disclosure. Documents of this nature shall not be included in any employee's official or unofficial personnel file.

### **1026.7.2 UNOFFICIAL PERSONNEL FILE**

The unofficial personnel file maintained by the employee's regional office/lab should contain copies of all documents in the employee's official personnel file, with the exception of adverse actions, which shall only be retained by OPS and PSG. Each personnel file will contain a personnel access record to track the date the file was accessed; the name, rank, unit and signature of the person accessing the file; and the reason the file was accessed. The access record will also reflect the employee's access to, and review of, his/her file.

Each employee's unofficial personnel file shall be reviewed annually by the employee and his/her supervisor. This review is to be completed concurrently with the employee's annual performance appraisal. During the review of the file, inappropriate material should be purged. A list of the items purged from the file shall be sent to bureau headquarters so identical documents can be removed from the bureau personnel file. Following the review, the employee shall sign the access record acknowledging review of the file.

All rules of confidentiality and disclosure shall apply equally to the unofficial personnel file.

Unless directed by the task force council, task forces are not required to maintain unofficial personnel files. Those that do must maintain the files in accordance with this section. It is recognized that task force personnel files will not contain many standard state forms.

### **1026.7.3 INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the Professional Standards Group. Access to these files may only be approved by the Chief or the supervisor of the Professional Standards Group. These files shall contain:

- a. The complete investigation of all formal complaints of employee misconduct, regardless of disposition.

1. Each investigation file shall be sequentially numbered within a calendar year (e.g., yy-001, yy-002).
  2. Each investigation file arising out of a formal citizen's complaint or a complaint involving a discriminatory harassment or hostile work environment shall be maintained no less than five years (Penal Code § 832.5(b)). Investigation files arising out of other internally generated complaints shall be maintained no less than two years (Government Code § 34090).
- b. Investigations that result in other than a sustained finding shall be maintained for the minimum statutory period but may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5 (c)).

#### **1026.7.4 TRAINING FILES**

An individual training file shall be maintained by the regional office/lab or task force Training Coordinator for each employee. Training files will contain records of all training requests, certificates of completion, and other relevant documents.

- a. It shall be the responsibility of the involved employee to provide the Training Coordinator with evidence of completed training/education and the completed Training Attendance and Evaluation Report in a timely manner.
- b. The Training Coordinator shall ensure that copies of such training records and reports are placed in the employee's Training File and provided to the Training Officer.
- c. The Training Coordinator is also responsible for maintaining current records in the Automated Training Record System (ATRS) for each employee assigned to his/her office. Annual ATRS printouts will be reviewed by the employee and placed in the employee's training file.
- d. When an employee transfers to another bureau/regional office, his/her training file shall be forwarded to that office's Training Coordinator.

#### **1026.7.5 MEDICAL INFORMATION**

No information which reveals an employee's medical history or medical condition is handled or retained by this division.

Workers' compensation forms and documents that do not contain personal medical information are maintained by the OC in a file separate from the employee's personnel file.

#### **1026.10 OTHER PERSONAL RECORDS**

In addition to the files described in this policy, the Division also maintains certain personal information to facilitate contact with its employees in the case of an emergency.

## **1026.10.1 EMERGENCY NOTIFICATION CARDS**

Three (3) Emergency Notification Cards (JUS 117) will be completed and signed by each regional office/lab employee upon initial employment with the bureau. Each card must be signed and dated by the supervisor and the employee. Two cards will be forwarded to bureau headquarters and one card retained in the regional office/lab. Cards will be reviewed and updated by the employee, and initialed and dated by the supervisor, annually during the employee's annual performance appraisal.

Regional task forces will prepare one JUS 117 card for each employee and retain the cards at the task force office. The TFC will sign and date the cards at the time of the annual review/update.

JUS 117 cards will be stored in an office area that is secure from members of the public, yet accessible to all personnel, and shall not be removed from the office/lab or maintained by supervisors in the field. They may be destroyed when an employee terminates employment with the bureau or task force.

## **1026.10.2 EMPLOYEE ROSTERS**

Any document or roster containing employees' personal contact information, including home addresses, will be stored in the office/lab in an area that is secure from members of the public, yet accessible to all personnel. Such information is not to be removed from the office/lab unless authorized by the regional manager.

## **1026.10.3 UPDATING CONTACT INFORMATION**

All regional office/lab and task force employees shall immediately report any change of name, personal home address, phone number, work location, emergency contact person(s) or personal physician/health care information to their supervisor or regional manager. The supervisor or regional manager shall ensure that the changes are reflected on the employee's JUS 117 and office/lab roster and, with the exception of task force employees, two copies of the updated JUS 117 are forwarded to bureau headquarters. Headquarters will update the bureau's employee roster as appropriate.

## **1028 Request for Change of Assignment**

### **1028.1 PURPOSE AND SCOPE**

It is the intent of the Department that all requests for change of assignment are considered equally. To facilitate the selection process, the following procedure is established whereby all such requests will be reviewed on an equal basis as assignments are made.

### **1028.2 TRANSFER LISTS**

Special Agents and Special Agent Supervisors wishing to transfer to another bureau, unit, or geographical location are to complete a Request for Transfer form (JUS 1411). The form should then be forwarded through the chain of command to their Bureau Director. Upon receipt of the approved JUS 1411, the OC will add the individual to the appropriate transfer list. Refer to the current Unit 7 collective bargaining agreement for the complete transfer policy and procedures applicable to agents.

### **1028.3 SUPERVISOR'S COMMENTARY**

The SAC shall make appropriate comments in the space provided on the form before forwarding it to the Bureau Director of the employee involved. If the SAC does not receive the JUS 1411, the Bureau Director will initial the form and return it to the employee without consideration.

## **1030 Employee Commendations**

### **1030.1 PURPOSE AND SCOPE**

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

It is not the intent of this policy to supersede State-level award programs such as the Attorney General Awards (Government Code § 19823). The most current information pertaining to the Attorney General Awards is released annually in the form of an administrative bulletin.

### **1030.2 WHO MAY MAKE COMMENDATIONS**

Any employee may recommend a commendation to the supervisor of the employee subject to commendation.

### **1030.3 COMMENDABLE ACTIONS**

A meritorious or commendable act by an employee of this department may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee.
- Conspicuous bravery or outstanding performance by any employee of the Department.
- Any action or performance that is above and beyond the typical duties of an employee.
- Exceptional performance by a unit or section.
- A significant contribution to the health and/or public safety of the citizens of the State of California that represents the Division's core values: integrity, teamwork, service and excellence.

### **1030.4 CHIEF'S AWARD**

The Chief's award is designed to recognize exceptional performance by sworn and professional staff both as individuals and as teams who distinguished themselves through their outstanding contribution(s) to public safety, investigative accomplishments, or special projects. This award is a certificate presented by the Chief at the annual Division of Law Enforcement Awards Ceremony. One award will be granted in each of three categories: team award, peace officer award, and professional staff award.

Nominations for the Chief's award are made in the following manner:

- a. Any employee may make a nomination. The nomination shall be submitted to the individual's immediate supervisor.
- b. The supervisor shall prepare a nomination package consisting of a memorandum and any supporting documentation. The memorandum must include the nominee's name (as it should be printed on the award), civil service classification, bureau, organizational unit, office location, and the name of a contact person.
- c. The supervisor shall forward the nomination package through the chain of command to the Bureau Director. The Bureau Director will select the bureau's final nominees and forward those nomination packages to the Chief. Each bureau may make one nomination for each of the three awards.
- d. The Chief will select the award recipients. At that time, the supervisors of the award recipients will each be asked to prepare a citation suitable for the Chief to use when presenting the award.

## **1030.5 BUREAU AWARD**

A Bureau Award may be initiated by the Bureau Director or requested by regional management. A request from regional management must be submitted to the Bureau Director in memorandum format and must include a description of the circumstances under which the commendable action was performed. A Bureau Award may be presented in one of the following formats:

- a. Formal Letter of Commendation - Issued by the Bureau Director at his/her discretion to employees in those cases where the work performed by the employee has been of outstanding quality. Examples may include superior handling of a difficult situation, conspicuous bravery, and any action that is above and beyond the typical duties of the employee.
- b. Unit Citation - Awarded to units or sections that make an outstanding contribution to the overall efforts of their parent bureau and its mission.
- c. Certificate of Commendation - Awarded to employees below the rank of Assistant Chief, outside law enforcement personnel, or private citizens for performing an act or making an outstanding contribution to the prevention and suppression of crime. Certificates of commendation may also be awarded to personnel retiring from law enforcement service, provided the recipient retires from a recognized law enforcement agency in good and honorable standing.

Copies of the awards described in this section shall be included in the employee's personnel files.

## **1030.6 COMMENDATIONS FROM OUTSIDE AGENCIES**

Copies of any letter of commendation sent by an outside agency to, or on behalf of, an employee of this division shall be included in the employee's personnel files. A copy shall also be given to the employee. The responsible regional manager shall send a letter acknowledging receipt of the letter of commendation to the appropriate agency. A copy of the acknowledgment letter shall also be included in the employee's personnel files.

## **1030.7 SPECIAL AGENT AWARDS**

The Special Agent Awards Program was established January 1, 1998, to recognize acts of valor and meritorious service by agents of this division. These are considered prestigious awards, comparable to, and of the same significance as, personal distinguished service decorations granted to military and civilian employees of the federal government.

The five medals awarded by this division are the Special Agent Medal of Valor, the Special Agent Medal of Meritorious Service, the Special Agent Medal of Purple Heart, the Special Agent Medal of Distinguished Service, and the Special Agent Medal of Lifesaving. All agent personnel, regardless of rank, are eligible to receive these awards.

### **1030.7.1 AWARD CRITERIA**

The following criteria shall be used to determine the appropriate level of award recognition:

- a. Special Agent Medal of Valor - Awarded for an act, or acts, of heroism far above and beyond that which would be expected in the line of duty, when:
  1. Failure to take such action would not result in censure;
  2. The risk of life actually existed and the agent had sufficient time to evaluate it, or a reasonable person would have assumed his/her life was in great danger;
  3. The agent accomplished the objective or was prevented from same by incurring a disabling injury or death; and
  4. The objective was of sufficient importance to justify the risk.
- b. Special Agent Medal of Meritorious Service - Awarded for the performance of an act, or acts, under emergency conditions where bravery is involved but is not far above and beyond the normal call of duty as delineated in the criteria for the Special Agent Medal of Valor Award.
- c. Special Agent Medal of Purple Heart - Awarded to agents who, while in the performance of their official duty, sustain a serious wound or great bodily injury either caused by a hostile person and/or resulting from actions worthy of the award of the Special Agent Medal of Valor or the Special Agent Medal of Meritorious Service Award.

- d. Special Agent Medal of Distinguished Service - Awarded for performing a particular outstanding service that brings credit to law enforcement in its highest tradition. Such service may be of a specific instance, or it may be an outstanding performance of general duties over an extended period of time. The award may be administered for performance extending beyond the normal work assignment.
- e. Special Agent Medal of Lifesaving - Awarded for extraordinary efforts in grave situations to protect or preserve human life not otherwise recognized. The Medal of Lifesaving shall be presented when an agent was directly responsible for the saving of a human life or for having performed emergency medical aid that results in the saving of a human life.

### **1030.7.2 AWARD DESCRIPTION**

The design of each medal is described in this section. Every medal is accompanied by a lapel pin in the color(s) of the neck strap and a citation summarizing the act(s) for which the award was bestowed. Citations are signed by the Attorney General, the Chief and the recipient's Bureau Director.

- a. The Special Agent Medal of Valor Award shall consist of a gold-colored medal attached to a blue and gold neck strap.
- b. The Special Agent Medal of Meritorious Service award shall consist of a gold and silver-colored medal attached to a blue and silver neck strap.
- c. The Special Agent Medal of Purple Heart Award shall consist of a silver-colored medal attached to a purple neck strap.
- d. The Special Agent Merit of Distinguished Service shall consist of a silver-colored medal attached to a red, white and blue neck strap.
- e. The Special Agent Medal of Lifesaving shall consist of a silver-colored medal attached to a red and white neck strap.

### **1030.7.3 REQUIRED INVESTIGATION, REPORT CONTENT AND TRANSMITTAL**

When information is received from any Division personnel, a private citizen, a peace officer from an outside agency, or any other credible source which meets the criteria for any of the Special Agent Awards described in this policy, a SAC or above from the nominee's division shall cause an investigation to be conducted. If the results of the investigation support recognizing the act(s) with one or more of the Special Agent Awards, the SAC or above shall prepare a report of the nominated agent's actions, which will constitute the basis for the proposed official commendation. In addition to the recommendation of the SAC or above, the report shall also provide information required to substantiate the proposed award, including the following:

- a. Name of SAC or above nominating the agent;
- b. Nominee's name(s);
- c. Nominee's bureau and office location;
- d. Date of incident;
- e. Location of incident;
- f. Summary of action;
- g. Extent of injuries to anyone involved in the incident, if any;
- h. Copies of police, fire, or other emergency reports, if available;
- i. Statements of supervisors, other officers, employees, or eyewitnesses that substantiate the nomination;
- j. Copies of newspaper articles, if any;
- k. Photographs or sketches that help portray the incident;
- l. Any other information considered pertinent to the nomination; and
- m. The SAC's recommendation as to which award(s) should be given.

If approved by the nominee's Bureau Director, the award nomination shall be submitted to the Special Agent Awards Review Board Chairperson, who shall call a meeting of the Special Agent Award Review Board.

#### **1030.7.4 SPECIAL AGENT AWARD REVIEW BOARD**

The Special Agent Award Review Board (Board) was established for the purpose of reviewing nominations for all five award categories and making recommendations to the Chief Deputy Attorney General. While the Board considers nominations submitted for acts that are consistent with the established award criteria, the Board may also, at its discretion, consider additional circumstances not specifically delineated in this policy.

- a. The Board shall be comprised of five voting members and two non-voting members, as follows:
  - 1. The Chiefs of the BGC, BI, BOF, and Bureau of Medi-Cal Fraud and Elder Abuse, or their designees;
  - 2. The President of the Association of Special Agents or his/her designee;

3. The DLE Training Officer, who will serve as the non-voting Board Chairperson; and
  4. A tactical, training, or other appropriate expert from the nominee's bureau, who will serve in a non-voting advisory capacity.
- b. The Board will convene at the call of the Chairperson, who will notify each Board member by memorandum of the meeting date, time, and location.
  - c. The Chairperson will submit a report to the Chief advising him/her of the Board's recommendations, which will then be forwarded to the Chief Deputy Attorney General for approval.

### **1030.7.5 PRESENTATION**

Special Agent Awards are presented by the Chief at a time and place of his/her choosing.

## **1032 Fitness for Duty**

### **1032.1 PURPOSE AND SCOPE**

All agents are required to be free from any physical, emotional, or mental condition which might adversely affect the exercise of peace officer powers. The purpose of this policy is to ensure that all agents of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

### **1032.2 EMPLOYEE RESPONSIBILITIES**

- a. It shall be the responsibility of each member of this department to maintain good physical condition sufficient to safely and properly perform essential duties of their position.
- b. Each member of this department shall perform his/her respective duties without physical, emotional, and/or mental constraints.
- c. During working hours, all employees are required to be alert, attentive, and capable of performing his/her assigned responsibilities.
- d. Any employee who feels unable to perform his/her duties shall promptly notify a supervisor. In the event that an employee believes that another employee is unable to perform his/her duties, such observations and/or belief shall be promptly reported to a supervisor.

### **1032.3 SUPERVISOR RESPONSIBILITIES**

- a. A supervisor observing an employee, or receiving a report of an employee who is perceived to be, unable to safely perform his/her duties due to a physical or mental condition shall take prompt and appropriate action in an effort to resolve the situation.
- b. Whenever feasible, the supervisor should attempt to ascertain the reason or source of the problem and in all cases a preliminary evaluation should be made in an effort to determine the level of inability of the employee to perform his/her duties.
- c. In the event the employee appears to be in need of immediate medical or psychiatric treatment, all reasonable efforts should be made to provide such care.
- d. In conjunction with the SAC or employee's available Bureau Director, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- e. The Chief shall be promptly notified in the event that any employee is relieved from duty.

## **1032.4 NON-WORK RELATED CONDITIONS**

Any employee suffering from a non-work related condition which warrants a temporary relief from duty may be required to use sick leave or other paid time off (PTO) in order to obtain medical treatment or other reasonable rest period.

## **1032.5 WORK RELATED CONDITIONS**

Any employee suffering from a work related condition which warrants a temporary relief from duty shall be required to comply with personnel rules and guidelines for processing such claims.

Upon the recommendation of the SAC or unit supervisor and concurrence of a Bureau Director, any employee whose actions or use of force in an official capacity result in death or serious injury to another may be temporarily removed from regularly assigned duties and/or placed on paid administrative leave for the wellbeing of the employee and until such time as the following may be completed:

- a. A preliminary determination that the employee's conduct appears to be in compliance with policy and, if appropriate,
- b. The employee has had the opportunity to receive necessary counseling and/or psychological clearance to return to full duty.

## **1032.7 LIMITATION ON HOURS WORKED**

Absent emergency operations members should not work more than:

- 16 hours in one day (24-hour period) or
- 30 hours in any 2-day (48 hour) period or
- 84 hours in any 7-day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, training, general overtime and any other work assignments.

## **1035 Lactation Break Policy**

### **1035.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (29 USC § 207 and Labor Code §§ 1030-1032).

### **1035.2 POLICY**

It is the policy of this department to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207 and Labor Code § 1030).

### **1035.3 LACTATION BREAK TIME**

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify their supervisor prior to 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.

### **1035.4 PRIVATE LOCATION**

The Department will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207 and Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid

interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

### **1035.5 STORAGE OF EXPRESSED MILK**

Any employee storing expressed milk in any authorized refrigerated area within the Department shall clearly label it as such and shall remove it when the employee ends her shift.

## **1036 Time Reporting**

### **1036.1 PURPOSE AND SCOPE**

This policy sets forth the requirements and procedures for reporting time worked and, if applicable, completing daily activity logs. The Department's Input Form (JUS 634) may be generated electronically by the online Time Reporting System (TRS) or completed manually using the paper form. Activity logs are completed exclusively in TRS.

#### **1036.1.1 RESPONSIBILITY FOR COMPLETION OF JUS 634s**

Employees are responsible for the accurate and timely submission of JUS 634s for the payment of wages.

### **1036.2 POLICY**

All DLE employees below the rank of SAC are required to utilize TRS, which is accessed through the DOJ Web portal on the Department's Intranet home page, for their monthly time entries. Agents shall submit time entries at least weekly.

All BMFEA employees, and all DLE employees at or above the rank of SAC, shall submit a completed paper JUS 634 form on a monthly basis.

### **1036.3 TRS TIME ENTRY REQUIREMENTS**

Time shall be entered into TRS using the following format:

- a. Time worked:
  1. Activity start and end times, in military time format
  2. Case number, if applicable
  3. Program code
  4. Function code
  5. Activity code
  6. Grant code, if applicable
  7. Comments (C), if required (see § 1036.4)
- b. Leave time:
  1. Start and end times

2. Leave code
3. Leave comments, if any

Most civilian employees have default program, function, and activity codes that do not need to be changed. Agents are required to create a separate entry for each activity.

Each regional office/lab has a TRS Coordinator who is available to set up TRS accounts and provide assistance to TRS users. Additionally, the TRS Manual is available in each regional office/lab.

#### **1036.4 ACTIVITY LOG ENTRY REQUIREMENTS**

Each agent shall include, in chronological order, a clear narrative of any significant actions initiated and other pertinent data in the "Comments" section of each of his/her time entries. This narrative, which is referred to as the agent's activity log, shall include but is not limited to the investigation number(s), name(s) of person(s) contacted, what prompted the action, any investigative steps taken, and the outcome.

The activity logs are not printed or retained anywhere other than in TRS.

#### **1036.5 TRS APPROVAL REQUIREMENTS**

Supervisors are required to approve their employees' TRS entries on a monthly basis. Approval of a time entry also indicates approval of the content of the corresponding activity log entry. The SAS shall ensure that the agents under his/her command report their time and activities in accordance with this policy. No acting SAS shall approve his/her own TRS entries.

Each SAC shall review and approve or disapprove the TRS time and activity log entries submitted by every SAS and other agent reporting directly to him/her on a monthly basis.

## **1040 Outside Employment**

### **1040.1 PURPOSE AND SCOPE**

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Chief prior to engaging in any outside employment. No member of this division shall engage in any employment which is clearly inconsistent, incompatible, or in conflict with the duties of DOJ officers and employees (Government Code § 19990 and the Incompatibility Statement of the Department of Justice (JUS 1401)).

Approval of outside employment shall be at the discretion of the Attorney General in accordance with the provisions of this policy.

#### **1040.1.1 DEFINITIONS**

**Outside Employment** - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

### **1040.2 OBTAINING APPROVAL**

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Application (JUS 8719) which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through channels to the Chief for consideration. If approved, the employee will be provided with a copy of the approved permit. Unless otherwise indicated in writing on the approved permit, a permit will be valid through the end of the calendar year in which the permit is approved. The employee is responsible for ensuring that the JUS 8719 is reviewed and re-signed annually. Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

#### **1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT**

If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief within ten days of the date of denial. If the employee's appeal is denied, the employee may file a grievance pursuant to the

procedure set forth in the current Memorandum of Understanding (MOU). Non-represented employees may appeal in accordance with California Code of Regulations, Title 2, § 599.859.

## **1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS**

Any outside employment permit may be revoked or suspended under the following circumstances:

- a. Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit.
- b. Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline.
- c. If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked.
- d. When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be rescinded until the employee has returned to a full duty status.

## **1040.3 PROHIBITED OUTSIDE EMPLOYMENT**

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

- a. Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage.
- b. Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department.

- c. Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department.
- d. Involves time demands that would render performance of the employee's duties for this department less efficient.

### **1040.3.1 OUTSIDE SECURITY EMPLOYMENT**

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside employment as a private security guard, private agent or other similar private security position. This provision is applicable whether or not the employee is compensated.

### **1040.3.3 SPECIAL RESTRICTIONS**

Except for emergency situations or with prior authorization from the Bureau Director, undercover agents or agents assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the agent's law enforcement status.

### **1040.4 DEPARTMENT RESOURCES**

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department.

#### **1040.4.1 REVIEW OF FINANCIAL RECORDS**

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest pursuant to Government Code § 3308. Prior to providing written approval for an outside employment position, the Department may request that an employee provide his or her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his or her personal financial records for review/audit. If the employee elects not to provide the requested records, his or her off-duty work permit may be revoked pursuant to Policy Manual § 1040.2.2(c).

## **1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment.

Employees who are uncertain whether a change in outside employment is material are advised to report the change.

## **1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY**

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief whether such outside employment should continue.

In the event the Chief determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit. Criteria for revoking the outside employment permit include, but are not limited to, the following:

- a. The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the State's professional medical advisors.
- b. The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
- c. The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the California Department of Justice, a request (in writing) may be made to the Chief to restore the permit.

## **1040.7 INCOMPATIBILITY REVIEW OF NON-EMPLOYMENT ACTIVITIES**

When an employee learns that a matter assigned to him/her relates to any act or activity undertaken in the employee's private capacity, or if the employee wishes to seek a prior

determination as to whether his/her private activity may be incompatible with his/her duties, the employee shall notify his/her supervisor in writing of the potential incompatibility. The supervisor, or the regional manager if the supervisor cannot make a determination, shall respond in writing as to the incompatibility of the activity and shall send a copy of such instructions, via the chain of command, to their Bureau Director. The Bureau Director shall forward a copy to the Deputy or Assistant Chief within 24 hours of receipt.

If the employee disagrees with the decision of his/her supervisor, he/she may request review of the decision by their Bureau Director and the Deputy or Assistant Chief.

## **1041 Employee Separations and Transfers**

### **1041.1 PURPOSE AND SCOPE**

The Department's separation, transfer and retirement procedures are found in DOJAM Chapter 6, section 10. This policy outlines requirements that are specific to this division.

### **1041.2 POLICY**

Upon notice that an employee is leaving a bureau through retirement, termination, transfer, promotion, leave of absence or resignation from state service, the regional manager shall immediately notify the Bureau Director and the bureau personnel liaison.

The bureau personnel liaison shall ensure the appropriate forms are processed as required by DOJAM Chapter 6, section 10. If the employee is a peace officer or dispatcher, a POST Notice of Appointment/Termination (POST 2-114) must also be completed and submitted to POST according to the instructions on the form. The regional manager shall ensure that TRS, CIMS, and organization charts are updated as appropriate.

## **1044 Personal Appearance Standards**

### **1044.1 PURPOSE AND SCOPE**

Employees of this division are expected to wear attire that is appropriate for the duties of their position and consistent with the professional environment of the Division.

### **1044.2 GROOMING STANDARDS**

Employees shall be well-groomed, clean and appropriately attired at all times while on duty. All employees shall avoid wearing clothing, jewelry and other accessories that may present a safety hazard.

It is understood that employee attire and grooming standards may differ depending on the bureau and nature of the assignment. Regional management, through the appropriate Bureau Director, shall have discretion to determine appropriate dress and reasonable grooming based on operational need.

### **1044.3 TATTOOS**

While representing the Department in any official capacity (i.e., serving a search warrant, appearing in court, attending a recruitment event, etc.), every reasonable effort should be made to conceal tattoos or other body art. At no time while 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 which depict racial, sexual, discriminatory, gang-related, or obscene language.

### **1044.4 BODY PIERCING OR ALTERATION**

Body piercing, dental ornamentation, or alteration to any area of the body that is a deviation from normal anatomical features and which is not medically required is prohibited from being displayed while representing the Department in any official capacity. Such body alteration includes but is not limited to:

- a. Tongue splitting or piercing.
- b. The complete or trans-dermal implantation of any material other than hair replacement.
- c. Abnormal shaping of the ears, eyes, nose or teeth
- d. Branding or scarification.

## **1046 Uniform Regulations**

### **1046.1 PURPOSE AND SCOPE**

The uniform policy of the California Department of Justice is established to ensure that uniformed agents will be readily identifiable to the public through the proper use and wearing of department uniforms when participating in field enforcement operations. Employees should also refer to the following associated Policy Manual sections:

- Section 700 Department-Owned and Personal Property
- Section 1044 Personal Appearance Standards

### **1046.2 WEARING AND CONDITION OF UNIFORM AND EQUIPMENT**

Agents are required to wear appropriate DOJ-issued Battle Dress Uniforms (BDU) and safety equipment as specified by this policy. Notwithstanding the type or level of uniform selected for any activity, consistency in appearance is required. The SAS/TFC or designee shall ensure that all personnel participating in field enforcement operations wear the same level of approved uniform to ensure a consistent appearance.

### **1046.3 RAID UNIFORMS**

#### **1046.3.1 PLANNED EVENTS**

Planned events are defined as enforcement actions such as the service of arrest or search warrants, residence parole and probation searches, undercover operations with a separate, pre-designated arrest team, or other high-risk enforcement operations. The full raid uniform for planned events consists of the following:

- a. Black-colored BDU consisting of long- or short-sleeved shirt, trousers, and boots. The wearing of the long-sleeved shirt versus the short-sleeved shirt shall be at the discretion of the SAS. The black DOJ windbreaker or foul weather jacket may be worn in conjunction with the BDU but not as a substitute for the black BDU shirt.
- b. Ballistic vest.
- c. Helmet.
  1. Wearing of the helmet is required during search warrant services, with the exception of business location searches. In all other activities, its use is at the SAS's discretion.
- d. DOJ-issued safety equipment consisting of handgun, web belt, holster, dual magazine pouch, handcuffs, ASP baton, OC Aerosol canister, and portable radio.

- e. DOJ-issued tactical vest cover or load bearing vest, if desired.
- f. The raid uniform described above may be waived in full or in part under the following circumstances:
  - 1. **Business Locations** - The SAS may waive the raid uniform when agent personnel are serving a search warrant for documentary evidence at a recognized business location not owned or controlled by the suspect(s) or associate(s) (i.e., a medical office or financial institution), and an arrest is not anticipated.
  - 2. **“Knock and Talks”** - When agent personnel are making contact at a private residence for the purpose of gathering information or initiating a consensual encounter, the SAS may waive elements of the raid uniform at his/her discretion. At a minimum, agents shall be required to wear their DOJ-issued safety equipment, boots, and either a BDU shirt worn over their ballistic vest or a DOJ-issued load bearing vest equipped with ballistic panels. The SAS shall ensure that all agents participating in the enforcement action present a consistent appearance and are clearly identifiable as DOJ Special Agents at all times.
  - 3. **Highly Sensitive Investigations** - When an investigation is deemed "highly sensitive" by the Bureau Director, the requirement to wear the raid uniform may be waived; if so, the SAC shall write "highly sensitive," the date, and sign his/her name across the top of the first page of the Operation Plan.

### **1046.3.2 UNPLANNED EVENTS**

Unplanned events are defined as those instances in which it was not previously anticipated that an arrest or entry would occur. This includes "in-progress" type crimes and entries made under exigent circumstances. Agent personnel performing these types of actions shall wear at a minimum:

- a. DOJ-issued black mesh jersey, windbreaker, tactical vest cover or load-bearing vest.
- b. Ballistic vest.
- c. Helmet, if appropriate.
- d. DOJ issued or previously authorized safety equipment as listed in § 1046.3.1(c).
- e. Appropriate additional tactical equipment as approved by the SAC.

### **1046.3.3 CLANDESTINE LAB ENTRY**

Clandestine lab entries are defined as those entries into known or suspected operational clandestine labs by members of a clandestine lab team that have been issued DOJ lab safety

equipment and are trained to conduct such investigations. Participants in such entries are required to wear the following:

- a. DOJ-issued black colored Nomex BDU with full identification patches.
- b. Ballistic vest and helmet.
- c. DOJ-issued or previously authorized safety equipment consisting of handgun, web belt, holster, dual magazine pouch, handcuffs, ASP baton, OC spray, and portable radio.
- d. DOJ-issued tactical vest cover or load bearing vest, if desired.
- e. Appropriate additional, DOJ-approved, tactical equipment as required by the responsible SAC.
- f. Other personal protective equipment items issued by DOJ or listed in the DLE Clandestine Laboratory Manual under the Personal Protective Equipment Section.

### **1046.3.4 SPECIAL ENFORCEMENT DETAILS**

Special enforcement details are defined as low crawls, rural listening/observation post assignments, long gun/observer assignments, and marijuana eradication activities. DLE recognizes the need for alternatives to the standard BDU during special enforcement details. Agents may have a need to wear a DOJ-approved camouflage uniform that blends with the environment.

With the case-specific approval of the SAC, agents conducting covert special enforcement details may wear a camouflage uniform. The approved uniform is the Tactical Response Uniform (TRU) manufactured by TRU-SPEC in the Multi-Cam pattern. The Woodland and Desert patterns are no longer authorized for use by DLE agents. The snow camouflage design may be worn, when appropriate.

The tan and green Multi-Cam patches specified in Policy Manual § 1046.4 shall be sewn onto Multi-Cam TRUs. The patches shall be of the same design and placed in the same location as the standard patches. All agent personnel conducting special enforcement details, with the exception of overt eradication operations, shall wear the following attire/equipment:

- a. Multi-Cam TRU with the approved Multi-Cam identification patches (including the police patch on the back).
- b. DOJ-issued ballistic vest.
- c. Helmet (if appropriate).
- d. DOJ-issued load bearing vest (if desired).

- e. Appropriate DOJ-approved, additional tactical equipment as authorized by the responsible SAC.

Agents are not to wear camouflage uniforms while participating in overt eradication operations, such as the Campaign Against Marijuana Planting (CAMP). The uniform approved for eradication and other overt rural operations is described in Policy Manual § 1046.3.5.

No agent may take part in a raid entry while wearing a camouflage uniform unless there is an emergency situation. Agents wearing camouflage uniforms may assist with prisoner security, site security, or search for evidence once the initial raid team has secured the scene. Nothing in this section prohibits the wearing of camouflage uniforms during training exercises.

### **1046.3.5 ERADICATION OPERATIONS**

The Olive Drab (OD) Green Uniform is authorized and encouraged for use in eradication and other overt rural operations. Agent safety may be compromised by wearing camouflage in these situations, because others may be unable to distinguish the agent from a suspect. The OD Green Uniform is widely recognized by law enforcement officers statewide and is used by CAMP.

OD Green Uniforms may be purchased by individual agents or offices and shall be affixed with authorized green and black OD Green Uniform patches.

### **1046.3.6 LOAD BEARING VESTS**

For the purpose of this policy, a load bearing vest is defined as a non-ballistic vest of fabric construction. The vest design includes various DOJ-approved equipment pouches affixed to the exterior of the vest which allow the wearer to carry specific law enforcement equipment during enforcement operations. The vest has the DOJ-approved law enforcement identification patches on the front and back to identify the wearer as a law enforcement officer. Load bearing vests shall not be altered without previous written approval of the DLE Firearms Officer and the Deputy or Assistant Chief.

- a. The following DOJ-issued load bearing vests are authorized for use during field enforcement operations:
  - 1. Modular pouch load bearing vest manufactured by Safariland, Ltd. This vest is issued with two (2) "fixed" pouches; a medical (PTK) pouch and a large back pouch. All other pouches are modular and can be placed on the vest by the wearer in accordance with this order. A maximum of four additional pouches can be placed on the vest.
  - 2. In the past, the DOJ issued a limited number of load bearing vests which were purchased for the Violence Suppression Program. These vests are of a "fixed" pouch design, and as such, are authorized for use as designed until they become

unserviceable. When deemed unserviceable, they will be replaced with the new modular load bearing vest.

3. With the case-specific approval of the appropriate SAC, previously DOJ-issued, military style load bearing equipment, intended to be used solely for rural operations such as CAMP and counter-sniper deployments, may be utilized.
- b. The load bearing vest may be worn during all field enforcement activities, to include the service of arrest and search warrants, undercover "buy/bust" operations, probation/parole searches, and crime scenes.
1. The load bearing vest is not a substitute for the DOJ-issued BDU that must be worn during planned enforcement activities.
  2. In all cases, a DOJ-issued ballistic vest shall be worn under the load-bearing vest.
- c. Equipment pouch placement:
1. Only equipment issued by DOJ may be carried on the vest. The pouches shall carry the equipment for which they were designed. The following denotes the approved placement of the modular pouches on the Safariland load bearing vests for a right-handed shooter; a left-handed shooter would mirror the stated placement directions:

Equipment Pouch Placement		
Pouch #	Description	Placement
D-1	Long Arm Magazines (MP5-M4, HK53)	Front of vest, parallel to the center zipper.
D-2	Shotshell Ammunition	Front of vest, parallel to the center zipper.
D-3	Side Arm Magazines	Opposite side of handgun along the belt line or horizontal on the chest on the opposite side as the handgun.
D-4	Side Arm/Long Arm	Front of vest, parallel to the center magazine zipper.
D-5	Side Arm Magazines Handcuff	Front or side of vest so as not to interfere w/handgun placement on the web belt.
D-7	Dual Distraction Pouch	Front of vest, either side, not to interfere with the handgun.

D-8	Less Lethal Pouch	Front or side of vest, opposite of handgun side.
D-9 A-G	Blank Pads	Any blank area of vest.
D-11	8" x 8" Utility Pouch	Front or side of vest, opposite of handgun side.
D-12	4" x 8" Utility Pouch	Mounted vertically or horizontally on front or side of vest, not to interfere with the handgun.
D-13	6" x 8" Utility Pouch	Mounted vertically or horizontally on front or side of vest, not to interfere with the handgun.
D-14	Radio Pouch	Side of vest, opposite of handgun side, or rear shoulder of vest.
D-16	37/40 mm Ammunition	Front of vest, either side, not to interfere with the handgun.
D-27	Hydration System	Back of vest, as long as it does not block or interfere with the visibility of the "California DOJ Police" patch.

### **1046.3.7 TACTICAL VEST COVERS**

Black tactical vest covers shall be issued to all agents. They are designed with stationary equipment pouches and are affixed with the patches specified in § 1046.4(a)(2-4). The tactical vest cover may be worn on its own in place of the load bearing vest; alternatively, the panels from a ballistic vest may be inserted into the tactical vest cover, eliminating the need to wear two separate vests.

### **1046.3.8 FOUL WEATHER JACKETS**

The Department issues foul weather jackets to all sworn personnel. The jackets shall bear all identification patches as previously outlined in this section. The approved jacket is identified as the BLAUER model # 9300Z All-Weather Jacket, black in color. The jacket may be worn with the DOJ-issued uniform. The jacket is not a substitute for the required BDU shirt or mesh jersey.

### **1046.3.9 PURCHASING AND REPLACEMENT OF UNIFORM EQUIPMENT**

In order to ensure Division-wide standards, all purchases and replacements of any of the items described in this policy shall be approved by the Firearms Officer.

Unserviceable items are to be surveyed per established procedures. No item described in this policy may be transferred to a task force or allied agency, even if it has been deemed unserviceable.

### **1046.3.10 EQUIPMENT INSPECTIONS**

Each SAC is responsible for conducting biannual inspections of the BDUs, foul weather jackets, wind breakers, mesh jerseys, and load bearing vests assigned to agents under his/her command. The inspections are to be conducted during field operations and firearms training/qualification sessions. The purpose of the inspection is to ensure that all such items are being maintained in a condition that enhances officer safety and professional appearance.

### **1046.3.11 FACIAL COVERINGS**

The DLE recognizes the need for the use of facial coverings (Nomex Balaclavas or face paint) during specific tactical operations. Their use is restricted to the following conditions:

- a. Balaclavas may be worn while entering into a clandestine laboratory for protection from a flash fire. As soon as the flash fire threat has passed, they shall be removed. When Nomex Balaclavas are used in conjunction with an entry, they shall be worn with the DOJ Nomex raid uniform (BDU).
- b. Balaclavas may be worn by the air crew and insertion team during a tactical aerial insertion. The insertion team shall remove the Balaclavas prior to making entry to the raid site if the location is not a suspected clandestine lab.
- c. Facial coverings may be worn in conjunction with a covert operation during which the agents do not want to be detected (i.e. observation posts, recon teams, intelligence gathering, etc.) and enforcement action is not anticipated.
- d. No agent should make entry while wearing camouflage face paint unless it is an emergency.

### **1046.3.12 BALLISTIC SHIELDS**

A ballistic shield may afford an added level of protection during tactical operations. If ballistic shields are available, their use should be considered when planning tactical/enforcement activities. Ballistic shields shall be used in accordance with DLE training standards and, except in an emergency, may be used only by agents trained in the use of ballistic shields.

### **1046.3.13 FIRST AID KITS**

While conducting field enforcement, such as undercover buys, surveillances, arrests, service of search warrants, clandestine laboratory investigations, and while attending firearms qualification and training, each agent shall have an approved first aid kit available.

It is the responsibility of the Rangemaster(s) to ensure that an appropriately sized and equipped kit is available during firearms qualification and training sessions.

Members of task forces who are issued first aid kits by their parent agencies or the task force shall have those first aid kits when engaging in the above-described activities.

### **1046.3.14 PERSONAL TRAUMA KITS**

While conducting tactical field operations, such as serving arrest or search warrants, all agents shall be equipped with a Personal Trauma Kit (PTK). Each PTK shall contain the following items: a bandage compress, a pair of sterile gloves, petroleum gauze bandage, and the required medical documentation. The medical documentation will include information concerning the agent's blood type, allergies, and any medication he/she may be taking.

Agents shall carry their PTKs in one of the top/chest pockets of the BDU shirt. The DOJ-issued load-bearing vests have a pocket on the weak/support hand side of the vest in the chest area. Agents shall store their PTKs in that pocket when they use their vests. When a rescuing agent administers first aid to an injured agent, he/she shall utilize the injured agent's PTK to ensure that the personal medical documentation is readily available for responding medical personnel.

### **1046.4 INSIGNIA AND PATCHES**

The various insignia and patches used by this department and the likeness of these items are the property of the Department. To remain consistent, the identification shall be permanently affixed in the form of a fully visible stencil or sewn patch.

- a. The following denotes the required identification patches for all DOJ-issued uniforms, foul weather jackets, wind breakers, mesh jerseys, and load bearing vests. The patch colors described below are intended for black BDUs and vests only. Patches of the same design in the Multi-Cam and OD Green color schemes are available and shall be affixed to the corresponding uniforms. The Multi-Cam patch lettering is green against a solid tan background. The OD Green patch lettering is black against a solid green background. The approved identification patches are:
  1. **Shoulder Patches** - The shoulder patches have the Attorney General's seal in the center in blue and gold against a black background. Shoulder patches shall be placed 3/4" below the shoulder seam of the BDU shirt, windbreaker and foul weather jacket. Shoulder patches shall not be placed on the load bearing vest.
  2. **"SPECIAL AGENT"** - The SPECIAL AGENT cloth badge is to be affixed to the left chest area and is gold in color. On the BDU shirt, the patch shall be placed 1" above the pocket.
  3. **"POLICE"** - The POLICE cloth patch or stencil is affixed to the right chest area. The lettering shall be gold in color on a black colored background. The letters shall be 1

1/2" in height. On the BDU shirt, the identification shall be placed 1 1/4" above the pocket.

4. "CALIFORNIA DOJ/POLICE" - The CALIFORNIA DOJ/POLICE cloth patch or stencil is affixed to the back. The lettering shall be gold in color on a black colored background. The "CALIFORNIA DOJ" letters shall be 3/4" in height and the "POLICE" letters shall be 2 3/4" in height.
  5. DOJ-issued name tape - The name tape shall denote the individual agent's first initial and last name. The letters shall be gold in color on a black colored background. On the BDU shirt and foul weather jacket, the name tape shall be centered above the right side pocket.
- b. Hash marks - Hash marks indicating length of service are optional and may be worn on long-sleeved black BDU shirts. Each hash mark denotes five (5) full years of qualifying law enforcement service. For the purpose of this policy, "qualifying law enforcement service" shall be limited to service as a peace officer as defined by Penal Code §§ 830.1, 830.2, or 830.3, or in a comparable position as either a federal law enforcement officer or a peace officer in another state.
1. The Department will bear the expense of having the hash mark(s) affixed to one (1) Department-issued BDU shirt. The expenditure may be submitted as a Travel Expense Claim approved by the supervisor. The agent will be responsible for the cost of applying hash marks to any additional BDU shirts.
  2. The embroidered hash mark is gold against a black background, two and one quarter inches in length, one half inch in width, cut on a forty-five degree angle at each end. The hash mark(s) shall be sewn onto the left sleeve of the uniform shirt. The hash mark(s) shall be placed in a position with the leading corner 3/4" above the on the sleeve cuff. The hash mark(s) shall be placed on the sleeve in such a position so that the leading edge of the hash mark(s) is lined up with the top edge of the seam on the elbow/forearm reinforcing patch.
- c. Insignia of Rank - Insignia shall be permanently affixed to the collar of BDU shirts issued to sworn employees in the rank of Special Agent Supervisor and above as follows:
1. Chief: Five gold-colored metal stars shall be worn in a cluster on each side of the shirt collar. One point of each star shall point upwards in a manner that a line bisecting the center of the clusters will be parallel to the front edge of the collar. The stars shall be centered between the top and bottom edge of the collar. The outermost tip of the cluster shall be positioned one inch from the edge of the collar.
  2. Deputy or Assistant Chief through Special Agent in Charge: The gold-colored metal stars shall be worn in a straight line on each side of the shirt collar. One point of each star shall point upwards in a manner that a line connecting the tips of those stars will be parallel to the top edge of the collar. The outermost tip of the front star shall be

one inch from the front edge of the collar. The number of stars denoting each rank are:

- a. The Deputy or Assistant Chief shall wear four stars.
  - b. Bureau Directors shall wear three stars.
  - c. Assistant Bureau Directors shall wear two stars.
  - d. Special Agents in Charge shall wear one star.
3. Special Agent Supervisor: One gold cloth bar shall be worn on each side of the shirt collar positioned with the front edge of the bar parallel with, and one inch from, the front edge of the collar. The bar shall be centered between the top and bottom edges of the collar.
- d. Flag Pin - A flag pin may be worn, centered above the name tape.

#### **1046.4.1 MOURNING BADGE**

Sworn employees shall wear a black mourning band across the uniform (belt) badge and the pocket badge, if the pocket badge is worn during the specified period, whenever a law enforcement officer is killed in the line of duty. Non-sworn employees not issued a uniform badge are authorized and encouraged to wear a Department-issued black ribbon pin affixed to the upper left chest area. The following mourning periods will be observed:

- a. A peace officer of this department or another California law enforcement agency - From the time of death, or upon receipt of notification of the officer's death, until midnight on the day of the funeral.
- b. National Peace Officers Memorial Day (May 15th) - From 0001 hours until 2359 hours.
- c. As directed by the Chief.

#### **1046.6 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS**

Unless specifically authorized by the Chief, California Department of Justice employees may not wear any part of the uniform, be photographed wearing any part of the uniform, utilize a department badge, patch or other official insignia, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the California Department of Justice to do any of the following (Government Code §§ 3206 and 3302):

- a. Endorse, support, oppose, or contradict any political campaign or initiative.

- b. Endorse, support, oppose, or contradict any social issue, cause, or religion.
- c. Endorse, support, or oppose, any product, service, company or other commercial entity.
- d. Appear in any commercial, social, or nonprofit publication, or any motion picture, film, video, public broadcast, or any website.

## **1046.8 UNAUTHORIZED UNIFORMS, EQUIPMENT AND ACCESSORIES**

California Department of Justice employees may not wear any uniform item, accessory or attachment unless specifically authorized in this manual or by the Chief or designee.

California Department of Justice employees may not use or carry any safety item, tool or other piece of equipment unless specifically authorized in this manual or by the Chief or designee.

## **1046.9 UNIFORM AND SAFETY EQUIPMENT COMMITTEE**

The purpose of the Uniform and Safety Equipment Committee (Committee) is to review, research and make recommendations for uniforms, safety equipment and related policy. The Committee shall be chaired by the SAC of the Advanced Training Center (ATC). Membership shall consist of the DLE Firearms Officer, plus one Special Agent and one SAS from each of the following bureaus: BOF, BGC, and BI.

Representatives from each of the bureaus shall be selected by the respective Bureau Director and appointed to the Committee. In making the personnel selections for the Committee, the Bureau Directors are asked to consider the following criteria:

- Desire to work on the Committee;
- Ability to work well in groups and consider pros and cons fairly, setting aside personal preferences;
- Good working knowledge of the Bureau's mission and field enforcement operations;
- Knowledge of the legal and "best practices" aspects of uniform and equipment use; and
- Basic knowledge of current uniform and safety equipment on the market.

### **1046.9.1 TERM OF ASSIGNMENT**

Personnel assigned to the Committee shall accept a commitment of one (1) fiscal year. Upon agreement of the Bureau Director and the appointee, the appointee may remain on the Committee for up to three (3) years.

## **1046.9.2 MEETINGS**

The Committee shall meet a minimum of three (3) times per fiscal year to review recent submissions and requests received from the field. The Committee Chairperson, in consensus with the members, shall establish meeting dates with the members.

## **1046.9.3 SUBMISSIONS TO THE COMMITTEE**

All requests and submissions to the Committee for consideration shall be forwarded through the respective Bureau chain of command to the Committee Chairperson for inclusion on the meeting agenda.

- a. The submissions shall include a narrative outlining the need for the item or policy to be considered. In the case of equipment, a detailed written description of the item shall include the manufacturer, model number, color or other description and cost.
- b. Bureau Directors are encouraged to comment on the need, or lack thereof, for the item or policy as it affects bureau operations.
- c. The Chief/Deputy or Assistant Chief may initiate a review of a specific policy and/or equipment items he/she deems appropriate for the Committee to review.
- d. The Committee shall review specific policy or equipment for potential modification or implementation.

## **1046.9.4 IMPLEMENTATION**

Upon completion of review by the Committee, all recommendations shall be submitted to the Chief's Office for decision on implementation or rejection. The Committee is not authorized to implement any uniform, equipment item or policy on its own accord. All approvals for implementation shall be issued by the DLE Chief's Office.

## **1050 Nepotism and Conflicting Relationships**

### **1050.1 PURPOSE AND SCOPE**

The Department's nepotism policy, which is designed to identify and prevent favoritism based on personal relationships in employment decisions, is found in DOJAM §§ 08200-08280.

## **1052 Department Identification**

### **1052.1 PURPOSE AND SCOPE**

The California Department of Justice badge, credentials and identification card, as well as the likeness of these items, and the name of the California Department of Justice are property of the Department and their use shall be restricted as set forth in this policy.

#### **1052.1.1 POLICY**

Only authorized badges, credentials and identification cards issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity. The sale, exchange, transfer, or reproduction of any badge or credential issued by this department is strictly prohibited.

Should a badge, credential or identification card become lost, damaged, or otherwise removed from the employee's control, he/she shall make the proper notifications as outlined in the Policy Manual 700.2(a). If, upon supervisory review, the loss, theft or damage of a badge is determined to have been caused by the employee's negligence or misuse, he/she may be subject to disciplinary action and/or required to compensate the Department for the cost of replacement.

### **1052.2 UNIFORM BADGE**

The uniform badge (also known as the belt badge) shall be issued to sworn members of this division defined by Penal Code § 830.1(b) as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. The uniform badge is a metal shield badge which is intended to be worn clipped to a belt but may also be affixed to a chain or lanyard and worn around the neck.

The uniform badge issued to security officers is a six-point star badge that is pinned to the left side of the shirt above the pocket.

Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

#### **1052.2.1 FLAT BADGE**

The flat badge is a metal shield badge mounted in a wallet. Flat badges are issued to peace officers defined by Penal Code § 830.1(b) and specified non-sworn employees. The flat badge issued to any non-sworn employee shall be inset with a bar below the badge which reads "Not a Peace Officer." All flat badges are issued with a set of credentials.

The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel other than those specified in § 1052.2.2(c).

## **1052.2.2 CIVILIAN PERSONNEL**

Badges and departmental identification cards (credentials) issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee (e.g. Criminalist, Investigative Auditor, etc.) and the fact that they are not peace officers.

- a. Non-sworn personnel shall not display any department badge except while on duty, or otherwise acting in an official and authorized capacity.
- b. Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.
- c. Flat badges with credentials may be issued to non-sworn employees in the following classifications:
  1. Assistant Bureau Director
  2. Criminalist series
  3. Forensic Scientist Toxicologist
  4. Latent Print Analyst series
  5. Photo Electronics Specialist series

The Chief or designee may elect to revoke any non-sworn employee's privilege to carry a badge or credential.

## **1052.2.3 BADGE PURCHASES**

Upon honorable retirement or promotion, an employee may purchase his/her assigned duty badge for display purposes. It is intended that the duty badge be used only as private memorabilia as other uses of the badge may be unlawful or in violation of this policy. Purchase approval is granted contingent upon the requester's agreement to have the badge permanently disabled (i.e. affixed to a plaque or shadowbox, etc.). Failure to have the badge permanently disabled may result in revocation of the approval and the badge itself.

Sworn personnel may purchase their previously-issued badge(s) if any of the following circumstances apply to the individual:

- a. Honorably separated or retired from the Department with an aggregate of at least five years' service with the State of California; or

- b. Honorably retired due to a service-connected disability after successfully passing probation; or
- c. Promoted within the Department.

Any eligible sworn employee wishing to purchase his/her previously-issued badge(s) shall submit to the OPS a package consisting of a Request to Purchase Badge(s) form (JUS 8735) signed by the employee's SAC; a memorandum from the Bureau Director to the Chief, signed by the Chief, indicating approval; and a check made payable to the Department of Justice. The replacement cost of the badge(s) may be determined by contacting the OPS credential coordinator via e-mail at [credentials@doj.ca.gov](mailto:credentials@doj.ca.gov).

Non-sworn employees may be allowed to purchase their previously-issued badges in accordance with the Department's Non-Sworn Badge Policy, found in Administrative Bulletin 07-13.

No employee may purchase his/her badge(s) if he/she is separating or retiring in lieu of dismissal or any pending disciplinary action that would have warranted dismissal. Any request to purchase a badge may be refused, or previously-given approval may be revoked, at the discretion of the Chief or designee if he/she deems such action appropriate.

#### **1052.2.4 POCKET BADGE**

The pocket badge is a metal shield badge that is affixed to a clear, rectangular Lucite backing and worn suspended from the breast pocket of a suit. Pocket badges may be issued upon request to sworn personnel at the rank of SAC or above. These badges are to be worn only when representing the Department at events such as conferences or memorial services.

Pocket badges may not be purchased or otherwise retained by employees upon separation or retirement, but may be retained and updated upon promotion.

#### **1052.2.5 CREDENTIALS**

Department credentials are laminated cards identifying the bearer as an employee of this department and include the employee's name, title, photograph, and signature. Credentials issued to agents cite their authority to carry a concealed weapon and are printed with a vertical blue bar and the word "POLICE" along the edge.

Credentials shall be issued only to civilian employees in the classifications listed below. Individual exemptions may be granted in writing by the Chief at his/her discretion.

- a. Credentials without flat badges may be issued to employees in the following classifications:
  - 1. Aviation Officer

2. Investigative Auditor series
  3. Pilot
  4. Precision Electronics Specialist series
  5. Regional Coordinator
  6. Security Officer
- b. Credentials without badges may be issued to employees in the following classifications only upon request by bureau management when there is a demonstrable need for a credential based upon the duties performed by the individual employee:
1. Associate Governmental Program Analyst
  2. Criminal Identification and Intelligence Supervisor
  3. Criminalist Intelligence Specialist
  4. DOJ Administrator I/II/III
  5. Property Controller
  6. Research Analyst
  7. Retired Annuitant
  8. Staff Services Manager I/II/III

### **1052.2.6 RETIRED PEACE OFFICER IDENTIFICATION**

Any honorably retired peace officer of this department may request that the identification certificate to which he/she is entitled, as described in Policy Manual § 220, be issued without an endorsement to carry a concealed weapon (CCW). There is no need to renew an identification certificate issued pursuant to this section.

### **1052.3 UNAUTHORIZED USE**

Except as required for on-duty use by current employees, no badge designed to be carried or displayed in a wallet, badge case or similar holder shall be issued to anyone other than a current or honorably retired peace officer.

Department badges are issued to all sworn employees and specified civilian employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to,

letters, memoranda, and electronic communications such as electronic mail or Web sites and Web pages.

The use of the badge, uniform patch and Department name for all material (printed matter, products or other items) developed for Department use shall be subject to approval by the Chief.

No employee shall loan his/her Department badge or identification card to another person or permit the badge or identification card to be reproduced or duplicated, except when authorized by the Chief or his/her designee.

#### **1052.4 PERMITTED USE BY EMPLOYEE GROUPS**

The likeness of the Department badge shall not be used without the expressed authorization of the Attorney General and shall be subject to the following:

- a. The employee associations may use the likeness of the Department badge for merchandise and official association business provided they are used in a clear representation of the association and not the California Department of Justice. The following modifications shall be included:
  1. The text on the upper and lower ribbons is replaced with the name of the employee association.
  2. The badge number portion displays the acronym of the employee association.
- b. The likeness of the Department badge for endorsement of political candidates shall not be used without the expressed approval of the Attorney General.

#### **1052.5 BUILDING IDENTIFICATION**

The Department issues each employee an official building identification card bearing the employee's name, identifying information and photo likeness. Employees should be in possession of their Department-issued identification card at all times while on the premises of any DOJ facility.

#### **1052.6 ISSUANCE OF BADGES, CREDENTIALS AND IDENTIFICATION**

Requests for new, replacement or corrected badges, credentials, or identification cards without a CCW must be submitted on an Application for DOJ Credentials form (JUS 8877) to the OPS Credential Coordinator. The JUS 8877 shall be signed by the employee's supervisor or Bureau Director. The Bureau Director's signature is only required if the requesting employee is in a classification listed in Policy Manual §1052.2.5(b) or any other classification not expressly permitted by this policy to receive a credential.

Any employee to whom a badge and/or credential is issued is required to sign an Identification Credential and/or Badge Assignment Agreement form (JUS 8731) and return the form to the OPS Credential Coordinator.

New and replacement building identification cards may be obtained by submitting a completed Authorization for Issuance, Re-Issuance, and/or Deactivation of Building Identification Badge form (JUS 8741) to the FPU.

No individual or entity within the Department, other than the DAS, is authorized to produce, modify, or purchase from a vendor any uniform badge, flat badge, pocket badge, credential, or retired peace officer identification card.

## **1052.7 RETURN OF BADGES, CREDENTIALS AND IDENTIFICATION**

Upon retirement, separation from DOJ, or promotion, all badges, other than those purchased by the employee, all credentials and all building identification cards shall be collected by the employee's supervisor, documented on the Employee Separation/Transfer Checklist for Property Retrieval (JUS 1421B), and promptly returned to the OPS Credential Coordinator. If a badge or credential is not returned, the supervisor shall immediately notify the Bureau Director, in writing, via the chain of command. The Bureau Director shall review the circumstances and notify the Chief of his/her recommended action.

## **1055 Reproductive Health**

### **1055.1 PURPOSE AND SCOPE**

Exposure to certain chemicals and high noise may affect reproductive health. The Division seeks to keep its employees' exposure to such hazards as low as reasonably achievable. The policies and procedures found in the Clandestine Laboratory Manual for Instruction and Procedure (CLMIP), the BFS Chemical Hygiene Plan and the Hazard Communication Plan (HCP) are intended to ensure employee safety and limit exposure. Exposure may also be reduced by utilizing engineering controls and personal protective equipment.

Despite these precautions, some exposures may occur. This policy sets forth the procedure for a pregnant female employee to be moved into another work position during pregnancy.

#### **1055.1.1 DEFINITION**

**Reproductive Hazard** - Any chemical recognized by the Office of Environmental Health Hazard Assessment (OEHHA) as part of the Safe Water Drinking and Toxic Enforcement Act of 1986, known to cause reproductive toxicity by interfering with conception, gestation, or the birth of a child. Additionally, high noise exposures identified by the American Conference of Governmental Industrial Hygienists (ACGIH) are also considered reproductive hazards. Exposure to impulse noise exceeding 155 dBC beyond the fifth month of pregnancy may cause hearing damage in the baby.

### **1055.2 RESPONSIBILITIES**

#### **1055.2.1 EMPLOYEES**

Employees are responsible for adhering to the policies and procedures that have been established to limit on-duty exposure to reproductive hazards.

When a female employee whose duties may involve exposure to a reproductive hazard first becomes aware of her pregnancy, she shall notify her supervisor. If the employee wishes to be placed on limited duty status or moved to another position where such exposure is eliminated, she must consult her personal physician regarding potential risks due to her occupation. The personal physician may contact the DOJ Occupational Health Physician from the UC Davis Medical Center and/or an Industrial Hygienist/Safety Officer at DLE Headquarters to obtain up-to-date information on reproductive health hazards.

If the personal physician finds that the employee should be placed on limited duty status or removed from the work environment where the chemical exposure and/or excessive noise may occur, then a written statement must be obtained which describes the chemical(s) of concern and/or the excessive noise sources that have been identified as reproductive hazards, as well as the duration for which the employee should be removed from the hazardous environment.

The employee shall provide the written physician's statement, on an Employee's Work Restriction Update form (JUS 1017), to her supervisor as soon as possible.

All pregnant employees who perform duties associated with the discharge of firearms shall submit an Advisory: Potential Health Hazards Associated with Firearms Training and Use form (DLE 182) signed by their medical care provider to their supervisor within 30 days of discovery of pregnancy.

## **1055.2.2 SUPERVISORS**

Every supervisor whose employees may come into contact with reproductive hazards shall ensure they receive training on policies relevant to preventing such exposures including the CLMIP, HCP, BFS Chemical Hygiene Plan and other relevant procedures. In addition, the supervisor shall review this order with those employees at the beginning of their employment and annually thereafter. Documentation of the review shall be maintained in the employee's training records.

When a supervisor receives a pregnant employee's personal physician's statement recommending that the employee be placed on limited duty assignment status or removed from the work environment where the exposure occurs, the supervisor must comply immediately and for the period specified by the physician.

When a supervisor is notified by an employee involved in the discharge of firearms that the employee is pregnant, the supervisor shall direct the employee to complete the DLE 182 (available on the Intranet) and return the signed form within 30 days of discovery of the pregnancy. The supervisor will provide a copy to the employee and forward copies to bureau headquarters and the Bureau Safety Officer. The original will be sent to the OPS Personnel Unit for inclusion in the employee's Official Personnel File.

## **1055.2.3 BUREAU SAFETY OFFICER**

The Bureau Safety Officer assesses workplace exposures annually to determine if the Division's policies and procedures are effectively limiting exposure to reproductive hazards, maintains a list of reproductive and developmental hazards to which Division employees may be exposed based on OEHHA or ACGIH publications, and provides consultation and training to employees and management on reproductive health issues.

The Bureau Safety Officer shall maintain records of reproductive health accommodation requests and DLE 182 forms. When reproductive health accommodation is necessary, the Bureau Safety Officer shall coordinate with the bureau personnel liaison and the OPS Risk Management Unit to facilitate limited duty assignments and ensure compliance with applicable personnel rules.

## **1056 Limited Duty**

### **1056.1 PURPOSE AND SCOPE**

When an employee becomes injured, either on or off duty, limited duty assignments may be considered.

### **1056.2 POLICY**

Requests for limited duty must be forwarded through the chain of command to the Chief with a recommendation from the Bureau Director. The request must indicate a specific length of time that the employee will be on limited duty and specific duties that the employee will perform. A note from the employee's doctor specifying all limitations must also be included with the request for limited duty. The Chief will review each request, and approval/rejection will be based on the length of recuperation, doctor's limitations, and the type of temporary duties to be performed.