

Monterey County Probation Department

Monterey County Probation Department CA Policy Manual

CHIEF'S PREFACE

This manual represents the values upon which the Monterey County Probation Department operates. The policies included herein are predicated on the law, best practice, and sound judgment. They are meant to provide guidance and protection to the individual employee, as well as to the organization as a whole.

We work in a complex, dynamic environment which presents a multitude of challenges on a daily basis. Every decision you make has the potential to profoundly affect the lives of others. Please refer to this manual often, for it is a fundamental tool you can rely upon to help you do your job. But remember, ultimately it is your individual responsibility to perform your duties with honor and integrity.

Keep abreast of all revisions to this manual and remain knowledgeable as to its contents. The overall success of our department will be measured by the degree to which we maintain the trust of the public, the Courts, and other allied agencies. Adhering to the policies contained within this manual will ensure that trust is warranted and that it endures.

Todd Keating

Chief Probation Officer

Monterey County Probation Department

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CODE OF ETHICS

I do solemnly swear that I will serve with humility, act without prejudice, uphold the law with dignity, be objective in the performance of my duties, and honest in every way. I will be aware of my responsibility to the community I serve and will conduct my personal life with decorum.

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

I recognize my Department as a symbol of public trust, to be held so long as I am true to the ethics of probation service. I will constantly strive to achieve these objectives and ideals, dedicating myself fully to my chosen profession.

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MISSION STATEMENT

The mission of the Monterey County Probation Department is to provide protection to the citizens of Monterey County.

We shall strive to prevent and reduce the frequency, severity, and impact of criminal and delinquent behavior among adults and juveniles who come within the jurisdiction of the Probation Department.

We shall accomplish this through prevention activities, preparation of appropriate reports, recommendations to the Court, enforcement of court orders, operating our juvenile institutions, and providing assistance to victims.

We shall continually seek and develop new methodologies in probation services.

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Chapter 1 - Law Enforcement Role and Authority

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

Sworn members of this department shall be considered peace officers pursuant to Penal Code § 830.5. The authority of any such peace officer extends to any place in the State of California while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment.

PC 830.5 (a) - The authority of probation officers shall extend only as follows:

- (a) To conditions of parole or of probation by any person in this state on parole or probation.
- (b) To the escape of any inmate or ward from a state or local institution.
- (c) To the transportation of persons on parole or probation.
- (d) To violations of any penal provisions of law that are discovered while performing the usual or authorized duties of his or her employment.
- (e) To the rendering of mutual aid to any other law enforcement agency.

PC 830.5 (b) - Any employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

100.3 CONSTITUTIONAL REQUIREMENTS

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

Procedure and the Law

101.1 POLICY

The Probation Department is an arm of the Court. The Chief Probation Officer is legally mandated under Penal Code Section 1203.6 for Adult, and Welfare & Institutions code Section 270 for Juvenile, to provide selected services and has the authority to provide other services to the Court and the Community. These services are to be provided in a lawful and professional manner. Staff are expected to implement policy and procedures, and are bound in every way by the dictates of the law. Staff is responsible for keeping current on departmental policies and procedures as well as changes in law.

Should any employee become aware of a conflict between the law, policy manuals or procedures, the employee shall notify his or her immediate supervisor of the apparent conflict. The supervisor will take the appropriate action to handle the situation.

If an employee is directed by the Court to perform in a manner that does not appear to be consistent with the departmental policy and procedure, the employee will attempt to make the Court aware of the problem. If an immediate decision is not required, the employee will seek direction from the immediate supervisor. If an immediate response is required, the employee will comply with the directive of the Court and advise the immediate supervisor of the situation as soon as possible.

Any employee who intentionally provides inaccurate, misleading or untruthful information to, or intentionally withholds significant information from, the Court or the administrators or supervisors of the department is subject to disciplinary action.

Oath of Office

104.1 PURPOSE AND SCOPE

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

104.2 POLICY

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

104.3 OATH OF OFFICE

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

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

104.4 MAINTENANCE OF RECORDS

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

Policy Manual

106.1 PURPOSE AND SCOPE

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

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

106.2 POLICY

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

106.2.1 DISCLAIMER

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

106.2.2 EXECUTIVE COUNCIL

Executive Council (EC) shall consist of the following:

- Chief Probation Officer (CPO)
- Assistant Chief Probation Officer (ACPO)
- Division Managers (Directors)
- Finance Manager
- Human Resources
- Management Analysts (MA)
- Departmental Information Systems Manager (DISM)

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The Executive Council shall review all recommendations regarding proposed changes to the manual.

106.3 AUTHORITY

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

106.4 DEFINITIONS

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

Adult - Any person 18 years of age or older.

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

CHP- The California Highway Patrol.

CFR - Code of Federal Regulations.

County - The County of Monterey.

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

Department/MCPD - The Monterey County Probation Department.

DMV - The Department of Motor Vehicles.

Employee/personnel - Any person employed by the Department.

Juvenile- Any person under the age of 18 years.

Manual - The Monterey County Probation Department Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Monterey County Probation Department, including full-time sworn officers, reserve officers, non-sworn employees and volunteers.

Officer - Those employees, regardless of rank, who are sworn peace officers of the Monterey County Probation Department.

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

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

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

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

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Shall or will - Indicates a mandatory action.

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

S TC - Standards and Training for Corrections

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

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

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

USC - United States Code.

106.4.1 DEPARTMENT AND PERSONAL PHILOSOPHIES

Policy and Procedure manuals, state laws and other relevant county documents to which all employees must adhere can only provide a general guideline to the routine, anticipated repeated situations that occur in the courts or a job function and, therefore, have limitations. These resources will not address all situations. Employees must exercise sound professional judgment and seek supervisory input when necessary.

The primary responsibility of the Chief Probation Officer as an officer of the Court is the protection of the community through the provision of legally mandated services to the Courts and the utilization of rehabilitative services for the clients under adult or juvenile supervision.

Fulfilling the role of probation requires a blend of peace officer duties and casework skills.

Strategies for effective case management include prevention, diversion, investigation, supervision, detention and collaboration with other agencies.

Employees must be careful to evaluate the difference between the department's philosophy and their own personal philosophy. Personal, political or religious beliefs should be kept separate from the employee's departmental role. In any case in which there is a potential conflict, the employee shall advise the immediate supervisor so appropriate action can be taken.

106.5 ISSUING THE POLICY MANUAL

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

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Each member shall sign a statement of receipt acknowledging that he/she has been provided access to, and has had the opportunity to review the Policy Manual and Departmental Directives. Members shall seek clarification as needed from an appropriate supervisor for any provisions that they do not fully understand.

106.6 PERIODIC REVIEW OF THE POLICY MANUAL

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

106.7 REVISIONS TO POLICIES

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

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

Each PSM/SOA will ensure that members under his/her supervision are aware of any Policy Manual revision.

All department members suggesting revision of the contents of the Policy Manual shall forward their written suggestions to their Division Director, who will consider the recommendations and forward them to the Executive Council as appropriate.

Chapter 2 - Organization and Administration

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

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

200.2 DIVISIONS

The Chief Probation Officer is responsible for administering and managing the Monterey County Probation Department. There are five divisions in the Probation Department as follows:

- Administration
- Adult Division
- Juvenile Division
- Juvenile Hall Division
- Youth Center Division

200.2.1 ADMINISTRATION DIVISION

The Administration Division is commanded by the Assistant Chief Probation Officer whose primary responsibility is to provide general management direction and control for that Division. The Administration Division consists of Training and Staff Development, Finance Office, Human Resources, Recruitment, Information Technology, and Administrative Services. The Assistant Chief Probation Officer also provides oversight to all other divisions in the department.

200.2.2 ADULT DIVISION

The Adult Division is commanded by a Division Director whose primary responsibility is to provide general management direction and control for that Division. The Adult Division consists of Adult Court Services, Adult Field Operations, Adult Special Services, the Community Corrections Unit, and the Family Violence Unit.

200.2.3 JUVENILE DIVISION

The Juvenile Division is commanded by a Division Director whose primary responsibility is to provide general management direction and control for that Division. The Juvenile Division consists of Juvenile Court Services, Juvenile Field Services, Juvenile Special Services, the Silver Star Resource Center, and the Silver Star Day Program and Evening Reporting Center at Rancho Cielo.

200.2.4 JUVENILE HALL DIVISION

The Juvenile Hall Division is commanded by a Division Director whose primary responsibility is to provide general management direction and control for that Division. The Juvenile Hall Division consists of custody operations at Juvenile Hall and the Home Supervision Program.

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200.2.5 YOUTH CENTER DIVISION

The Youth Center Division is commanded by a Division Director whose primary responsibility is to provide general management direction and control for that Division. The Youth Center Division consists of custody operations at the Monterey County Youth Center and Aftercare Program.

Determining Imminent Risk and Reasonable Candidacy for Foster Care

201.1 PURPOSE AND SCOPE

This policy establishes a standard process for identifying minors who are at imminent risk of entering foster care (Reasonable Candidate) and documenting pre-placement activities related to Title IV-E claims as outlined in the [All County Letter No. 14-36](#).

201.1.1 DEFINITIONS

Definitions related to this policy include:

Imminent Risk - When the department is involved for the specific purpose of either removing the minor from the home or referring the minor to services, such that if the services are unsuccessful, the plan is to remove the minor from the home and place him/her into foster care.

201.2 POLICY

All minors pending disposition for an adjudicated 602 WIC Petition shall be assessed to determine Imminent Risk/Reasonable Candidacy for foster care. Once a minor is determined to be at imminent risk, a Title IV-E Pre-Placement Case Plan will be created to document pre-placement activities related to Title IV-E case management claims.

201.3 DETERMINATION OF IMMINENT RISK

A minor will be considered to be at imminent risk/reasonable candidacy if all of the following are met:

- (a) The minor is under 18 years old.
- (b) A 602 WIC petition has been adjudicated (Wardship, Probation without Wardship, and DEJ cases).
- (c) The minor has been assessed and found to be at imminent risk via the [Evaluation of Imminent Risk and Reasonable Candidacy form](#) .

201.4 TITLE IV-E PRE-PLACEMENT CASE PLAN

The [Title IV-E Pre-Placement Case Plan](#) shall include the following:

- (a) A description of circumstances, including but not limited to behavioral issues that place the minor at imminent risk of removal from the home absent the indicated services. This cannot be solely a list of problems, but must include why these issues will result in out-of-home placement if services are not provided. This will include behavioral issues and obstacles related to the parents or guardian.
- (b) Types of services needed for the minor to remain safely in his/her home. This must include any services aimed at the parents or guardians.
- (c) The statement that absent the effectiveness of services, foster care is the planned arrangement for the minor and identify the type of planned placement setting.

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- (d) Signatures of the minor, parent or guardian, DPO, and PSM (**Title IV-E claiming cannot begin until all parties have signed the case plan**)

In addition, each case plan should include the following:

- (a) SMART Objectives (**S**pecific, **M**easurable, **A**chievable, **R**ealistic, **T**ime-Bound)
- (b) Responsibilities of parent/guardian and DPO
- (c) Planned level of contact by DPO (minimum of one face-to-face contact per month, documented in the current case management system)
- (d) Projected dates of completion of case plan objectives

201.5 REDETERMINATION OF IMMINENT RISK

Redetermination of Imminent Risk shall be updated no less than every six months or as a new change occurs. This will be done by completing both the "Evaluation of Imminent Risk and Reasonable Candidacy" document and a new Case Plan.

If a minor is determined to still be a candidate after six months but a new case plan has not been jointly developed and signed by all required parties, Title IV-E claiming must cease until the new Case Plan requirement is met.

Case Plans are evolving documents that should be updated and modified as the needs of the minor and family change. It is important to maintain the Case Plan as a living document - updating objectives, completion of objectives, and new or emerging issues.

If the minor is placed in a detention center for any reason, all Title IV-E claiming must cease. If the minor is released back home, he/she is found to still be at imminent risk, and foster care is still the planned arrangement for the minor should services be unsuccessful, Title IV-E claiming may resume for allowable activities.

201.5.1 REIMBURSABLE TITLE IV-E ADMINISTRATIVE ACTIVITIES

- **Referral to services** - providing information to the minor, parent(s) and/or legal guardian(s) or service provider so that the individual can obtain the services.
- **Preparation for and participation in judicial determinations** - preparation of reports to the court and participation in court proceedings, except those that are crime and probation only related.
- **Placement of the minor** - making arrangements for the minor's placement. Also includes discussions with agencies, parents, and foster parents regarding the need for and availability of placement.
- **Updating the Case Plan** - This activity is related to the development of the Case Plan.
- **Case reviews** - evaluation of the continuing needs and services of the minor that is completed at least once every six months.
- **Case management and supervision** - management/monitoring of the case for services provided to or on behalf of protected minors. An example would be a visit to a minor in his/her home or the steps taken by the case manager/monitor to ensure that

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the case service plans are adequately established and implemented in accordance with service requirements.

- **Data collection and reporting** - activities associated with the preparation and maintenance of applications, authorizations, or any other required minor welfare system data/documentation.

201.5.2 NON-REIMBURSABLE ACTIVITIES

- Arranging activities which are performed on behalf of an individual is not an allowable activity.
- Any direct service and counseling are not allowable costs. Staff performing these activities should claim this time to "Probation Only."
- All activities performed on behalf of a reasonable candidate while that minor is in custody are not allowable activities.

Departmental Directive

203.1 PURPOSE AND SCOPE

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

203.1.1 DEPARTMENTAL DIRECTIVE PROTOCOL

Departmental Directives will be incorporated into the manual as required upon approval of the Chief Probation Officer. Departmental Directives will modify existing policies or create a new policy as appropriate and will be rescinded upon incorporation into the manual.

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

Any Departmental Directives issued after publication of the manual shall be numbered consecutively starting with the last two digits of the year, followed by the number "01" For example, 08-01 signifies the first Departmental Directive for the year 2008.

203.2 RESPONSIBILITIES

203.2.1 EXECUTIVE COUNCIL

The Executive Council shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by a Departmental Directive.

203.2.2 ASSISTANT CHIEF PROBATION OFFICER

The Assistant Chief Probation Officer shall issue all Departmental Directives.

203.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

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

Training Policy

207.1 PURPOSE AND SCOPE

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

207.2 PHILOSOPHY

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

207.3 STC ANNUAL HOURS

The Training Unit will provide an adequate selection of courses for annual STC training hours. The Unit will monitor the hours, but the ultimate responsibility lies with the supervisor.

207.4 STC CORE HOURS

Every new staff and certain newly promoted staff must complete CORE training within a one-year period. The Training Unit will be responsible for locating and making arrangements for the CORE hours.

207.5 SPECIALIZED TRAINING

If a special need exists and there are not STC certified classes available or if there are not enough staff who might benefit from the class, an existing course may be given a "Special Certification." In order for this to be done, the Training Unit must have the request six weeks prior to the beginning date of the course.

207.6 NON-STC STAFF

Non-STC staff are encouraged to participate in training. It is the responsibility of the Supervisor to evaluate their staff and recommend appropriate training as needed and available.

If an STC certified class has openings and no other STC staff are available, non-STC staff may attend the training upon their request and approval by their Supervisor, Director and the Training Officer.

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Training Policy

207.7 TRAINING PROCEDURES

- (a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:
 1. Court appearances
 2. First choice vacation
 3. Sick leave
 4. Physical limitations preventing the employee's participation.
 5. Emergency situations
- (b) When an employee is unable to attend mandatory training, that employee shall:
 1. Notify his/her supervisor as soon as possible but no later than one hour prior to the start of training.
 2. Document his/her absence in a memorandum to his/her supervisor.
 3. Make arrangements through his/her supervisor and the Training PSM to attend the required training on an alternate date.

207.8 EXPECTATIONS OF DEPARTMENTAL MANAGEMENT

Directors and Supervisors in the department are expected to:

- Make staff aware that training is their job for that day and relieve them of other workload responsibilities.
- Follow up with staff after training to determine the quality and benefits of the training.
- Provide input to the Training PSM regarding the quality of training and problems that are perceived.
- Evaluate staff's training needs and request training in those areas to the Training PSM.
- Ensure the timely completion of annual STC Training hours by staff under their supervision.

207.9 EXPECTATIONS OF STAFF

It is the responsibility of each staff member to recognize that training is their job for the day and that they have individual responsibilities to derive positive benefits from training. Each staff member is expected to:

- Report disruptive or inappropriate behavior to the trainer.
- Attend and complete all training for which they are enrolled.

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Training Policy

- Be punctual and return from breaks and lunch at designated times and remain in training until the class is dismissed.
- Have only those training materials pertinent to the session before them.
- Conduct themselves in an appropriate manner.
- Respect others' ideas and opinions and questions.
- Follow directions of the trainer and/or proctor in each class.
- Wear attire to training in accordance with the Department's Personal Appearance Standards.
- Maintain their own training records.

207.10 EXPECTATIONS OF TRAINERS

Persons providing training to Probation Department staff are expected to:

- Be organized and prepared to start training at the indicated time.
- Ensure insofar as possible that the training area is properly set up and is conducive to the training to be offered.
- Ensure that training handouts, etc. are prepared and available.
- Be responsive to the needs and questions of the class.
- Control disruptive and/or inattentive behavior and if the trainees fail to conform, direct them to leave and immediately report back to their supervisor. Report, in writing, to the Training PSM, any incidents of disruptive and/or inattentive behavior.
- Provide regular breaks to the trainees and resume training on time following the breaks.
- Work with the proctor to have trainees sign in and evaluate the class.

Electronic Mail

211.1 PURPOSE AND SCOPE

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

211.2 EMAIL RIGHT OF PRIVACY

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

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

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

211.3 PROHIBITED USE OF EMAIL

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

Email messages addressed to the entire department are only to be used for official business related items that are of particular interest to all users and must be approved by the Chief Probation Officer or a Division Director. Personal advertisements are not acceptable.

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

Administrative Communications

213.1 PURPOSE AND SCOPE

Administrative communications of this department are governed by the following policies.

213.2 INTERNAL MEMORANDA

Internal memoranda may be issued periodically by the Chief Probation Officer or his/her designee to announce and document promotions, transfers, hiring of new personnel, separations, personnel and group commendations, or other changes in status.

213.3 DEPARTMENT LETTERHEAD

In order to ensure that the letterhead and name of the Department are not misused, Department letterhead shall only be used for official business and with PSM approval.

213.4 SURVEYS

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

Display of Badges

214.1 POLICY

It is the policy of the Monterey County Probation Department that all deputized peace officers who have completed Penal Code 832 training will wear and visibly display their peace officer badges during on duty hours.

214.2 ISSUANCE

Upon notification that an employee has completed PC 832 training and is eligible, the Probation Finance Office shall issue to that deputized peace officer, a display type badge. Officers will also be issued a belt clip to display the badge from their belts. Badges shall be turned in to the immediate supervisor upon an employee's resignation, termination or retirement from services. It is the supervisor's responsibility to forward recovered badges to the Probation Finance Office.

214.3 METHOD OF DISPLAY

The badge may be displayed either on the probation officer's belt using the issued belt clip, or it may be pinned to the jacket, skirt, or blouse after removing the belt clip. Other acceptable options are for the probation officer to obtain a pocket insert for the shirt or jacket and attach the badge to the pocket insert. Additionally, the badge may be on a chain or cord worn around the neck.

Probation officers are expected to display their badges at all times while on duty. The badge is to be displayed only during the workday when the officer is on duty. Under no circumstances may any officer use or display his/her badge to influence the behavior of another apart from his/her designated duties, or when off-duty. "Flashing" a badge is forbidden and may result in disciplinary action.

214.3.1 MOURNING BADGE PROTOCOL

Sworn members may wear a black mourning band across his/her badge whenever a peace officer is killed in the line of duty. The band shall be placed diagonally across the star, with the high point on the left. The following mourning periods will be observed:

- (a) An officer of this department - From the time of death until 30 days following the death
- (b) Any peace officer from this or an adjacent county - From the time of death until the conclusion of the day of burial
- (c) Funeral attendee - While attending the funeral of a fallen peace officer outside this or an adjacent county or while attending the non line of duty funeral for any active or retired peace officer
- (d) National Peace Officers Memorial Day - May 15th of each year
- (e) At the direction of the Chief Probation Officer

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214.4 REPORTING AND REPLACEMENT OF LOST/STOLEN BADGES

Immediately upon realizing that a badge is missing or stolen, the peace officer is to submit a written report to the Chief Probation Officer through the chain of command. The Probation Division Director will insure that law enforcement is notified of the badge number that is missing and/or stolen, and will provide the Finance Office with written instruction to retire the badge number and issue a new badge to the officer.

The Office of the Chief retains the right to waive provisions of the policy when he/she determines it is in the best interest of the department.

Identification Cards

216.1 POLICY

The Monterey County Probation Department will issue identification cards to all departmental staff, other agency staff working regularly in the Probation Department, and to members of the Juvenile Justice Commission, and the Restorative Justice Commission. Authorization to issue identification cards will be in written form and signed by the Chief Probation Officer or his/her designee.

216.2 DISPLAY OF DEPARTMENT IDENTIFICATION CARDS

All non-sworn staff issued identification cards are to display their identification cards when in a Probation Department Facility during the hours of operation. The departmental identification card is to be shown upon request when:

- (a) Acquiring information for valid departmental purposes from public or private agencies, individuals, schools, business firms, law enforcement and correctional agencies.
- (b) Upon entering secure facilities which require identification.
- (c) Other situations in which it is necessary to show departmental identification in order to conduct departmental business. Inappropriate use of departmental identification including the use of that identification for personal reasons may result in disciplinary actions or other sanctions being imposed.

216.3 ISSUANCE OF IDENTIFICATION CARDS

The following criteria will apply to identification cards that are issued:

- (a) Permanent employees and employees of other agencies working within the Department will receive a photo identification card. These cards will show no expiration date on them. They will specify the individual's job title, peace officer status, and employing department.
- (b) Juvenile Justice Commission and Restorative Justice Commission members will receive photo identification cards. These will show an expiration date, coinciding with the term of office of the individual.
- (c) Temporary employees and provisional employees will receive a photo identification card that will expire at the end of the individual's appointment or six months from the date of issuance.
- (d) Interns, students and volunteers will receive photo identification cards. These cards will specify the nature of the activity for which they are volunteering and will expire within six months unless prior arrangements are made for a longer duration.

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216.4 RETURN OF IDENTIFICATION CARDS

All identification cards will be surrendered when new cards are issued. Employees separating from the Probation Department will turn in all departmental identification at the time of their exit interview. The responsibility for recovering non-staff identification will rest with the person supervising the program in which the volunteer or other party functions.

Retired Badges

217.1 PURPOSE AND SCOPE

This policy establishes the process by which a sworn officer may have his/her badge retired upon retiring from the Monterey County Probation Department.

217.2 POLICY

Upon the request of a sworn officer who is retiring under good standing from County employment and PERS after 15 years or longer with the Monterey County Probation Department, the department may retire the officer's badge. "Retired" means that the badge is mounted on a plaque inscribed with the officer's name and years of service. No badge will be given to an officer unless it is permanently mounted on a plaque. The officer may request that his/her badge be retired and mounted or that a new badge be retired and mounted.

217.3 BARGAINING UNIT RESPONSIBILITIES

The bargaining unit of the retiring officer shall be responsible for all costs associated with the mounting of a badge and the purchase of a replacement badge. If the retiring officer is in the Y Unit, these costs will be paid by the officer's Y Unit colleagues.

Retiree Concealed Firearms

219.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the issuance, denial, suspension or revocation of Monterey County Probation Department identification cards under California law (Penal Code § 25455).

219.2 POLICY

It is the policy of the Monterey County Probation Department to provide identification cards to qualified former or retired officers as provided in this policy.

219.3 CALIFORNIA IDENTIFICATION CARD ISSUANCE

Any full-time sworn officer of this department who was authorized to, and did, carry a concealed firearm during the course and scope of his/her employment shall be issued an identification card with a Carrying Concealed Weapon endorsement, "CCW Approved," upon honorable retirement (Penal Code § 25455).

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

219.3.1 CALIFORNIA IDENTIFICATION CARD FORMAT

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

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

219.4 FORMER OFFICER RESPONSIBILITIES

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

219.4.1 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT

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

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- (a) Qualify annually with the authorized firearm at a course approved by this department at the retired officer's expense.
- (b) Remain subject to all applicable department policies and federal, state and local laws.
- (c) Not engage in conduct that compromises public safety.
- (d) Only be authorized to carry a concealed firearm inspected and approved by the Department.

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

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

- (a) In the event that a CCW endorsement is initially denied, the retired officer shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.
- (b) Prior to revocation of any CCW endorsement, the Department shall provide the affected retiree with written notice of a hearing by either personal service or first class mail, postage prepaid, return receipt requested to the retiree's last known address (Penal Code § 26315).
 - 1. The retiree shall have 15 days from the date of service to file a written request for a hearing.
 - 2. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received (Penal Code § 26315).
 - 3. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right.
- (c) A hearing for the denial or revocation of any CCW endorsement shall be conducted before a hearing board composed of three members, one selected by the Department, one selected by the retiree or his/her employee organization, and one selected jointly (Penal Code § 26320).
 - 1. The decision of such hearing board shall be binding on the Department and the retiree.
 - 2. Any retiree who waives the right to a hearing or whose CCW endorsement has been revoked at a hearing shall immediately surrender his/her identification card. The Department will then reissue a new identification card which shall be stamped "No CCW Privilege."
- (d) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the Shift Supervisor as soon as practicable. The Shift Supervisor should promptly take appropriate steps to look into the matter and, if warranted,

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contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.

1. Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).
2. The Shift Supervisor should document the investigation, the actions taken and, if applicable, any notification made to the retiree. The memo should be forwarded to the Chief Probation Officer.
3. The personal and written notification should be as follows:
 - (a) The retiree's CCW endorsement is immediately and temporarily suspended.
 - (b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.
 - (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Shift Supervisor should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Shift Supervisor may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

219.6 FIREARM QUALIFICATIONS

The Rangemaster may provide former officers from this department an opportunity to qualify. Written evidence of the qualification and the weapons used will be provided and will contain the date of the qualification. The Rangemaster will maintain a record of the qualifications and weapons used.

Chapter 3 - General Operations

Use of Force

300.1 PURPOSE AND SCOPE

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

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force.

300.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

300.2 POLICY

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

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

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

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300.2.1 DUTY TO INTERCEDE

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

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

300.2.2 FAIR AND UNBIASED USE OF FORCE

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

300.2.3 DUTY TO REPORT EXCESSIVE FORCE

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

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

300.2.4 FAILURE TO INTERCEDE

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

300.3 USE OF FORCE

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

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

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident. Officers may only use a level of force that they reasonably believe is proportional to the seriousness of the suspected offense or the reasonably perceived level of actual or threatened resistance (Government Code § 7286(b)).

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the approved or authorized tools, weapons, or methods

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provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

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

300.3.1 USE OF FORCE TO EFFECT AN ARREST

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

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

- (a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time (Penal Code § 835a).
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).
- (d) The conduct of the involved officer leading up to the use of force (Penal Code § 835a).
- (e) The effects of suspected drugs or alcohol.
- (f) The individual's apparent mental state or capacity (Penal Code § 835a).
- (g) The individual's apparent ability to understand and comply with officer commands (Penal Code § 835a).
- (h) Proximity of weapons or dangerous improvised devices.
- (i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).
- (k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.

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

300.3.3 PAIN COMPLIANCE TECHNIQUES

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

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

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

300.3.4 USE OF FORCE TO SEIZE EVIDENCE

In general, officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, officers should not intentionally use any technique that restricts blood flow to the head, restricts respiration or which creates a reasonable likelihood that blood flow to the head or respiration would be restricted. Officers are encouraged to use techniques and methods taught by the Monterey County Probation Department for this specific purpose.

300.3.5 ALTERNATIVE TACTICS - DE-ESCALATION

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

- (a) Summoning additional resources that are able to respond in a reasonably timely manner.

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- (b) Formulating a plan with responding officers before entering an unstable situation that does not reasonably appear to require immediate intervention.
- (c) Employing other tactics that do not unreasonably increase officer jeopardy.

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

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

300.3.6 RESTRICTIONS ON THE USE OF A CHOKE HOLD

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

300.3.7 ADDITIONAL RESTRICTIONS

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

300.4 DEADLY FORCE APPLICATIONS

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

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

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

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

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

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

300.4.1 SHOOTING AT OR FROM MOVING VEHICLES

Shots fired at or from a moving vehicle are rarely effective and may involve additional considerations and risks. When feasible, officers should take reasonable steps to move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. An officer should only discharge a firearm at a moving vehicle or its occupants when the officer reasonably believes there are no other reasonable means available to avert the imminent threat of the vehicle, or if deadly force other than the vehicle is directed at the officer or others (Government Code § 7286(b)).

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

300.4.2 DISPLAYING OF FIREARMS

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

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

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

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300.5 REPORTING THE USE OF FORCE

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

300.5.1 NOTIFICATION TO SUPERVISORS

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

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

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

300.6 MEDICAL CONSIDERATION

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

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

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

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

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

300.7 SUPERVISOR RESPONSIBILITY

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

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

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

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

300.7.1 SHIFT SUPERVISOR RESPONSIBILITY

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

300.8 TRAINING

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

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

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

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

300.9 USE OF FORCE COMPLAINTS

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

300.10 POLICY REVIEW

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

300.11 POLICY AVAILABILITY

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

300.12 PUBLIC RECORDS REQUESTS

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

Use of Force Review

302.1 PURPOSE AND SCOPE

This policy establishes a process for the Monterey County Probation Department to review the use of force by its employees.

This review process shall be in addition to any other review or investigation that may be conducted by any outside or multi-agency entity having jurisdiction over the investigation or evaluation of the use of deadly force.

302.2 POLICY

The Monterey County Probation Department will objectively evaluate the use of force by its members to ensure that their authority is used lawfully, appropriately and is consistent with training and policy.

302.3 REMOVAL FROM LINE DUTY ASSIGNMENT

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

302.4 REVIEW BOARD

The Use of Force Review Board will be convened when the use of force by a member results in very serious injury or death to another.

The Use of Force Review Board will also investigate and review the circumstances surrounding every discharge of a firearm, whether the employee was on- or off-duty, excluding training or recreational use.

The Chief Probation Officer may request the Use of Force Review Board to investigate the circumstances surrounding any use of force incident.

The Chief Probation Officer will convene the Use of Force Review Board as necessary. It will be the responsibility of the Shift Supervisor or supervisor of the involved employee to notify the appropriate Division Director of any incidents requiring board review. The involved employee's PSM or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

302.4.1 COMPOSITION OF THE BOARD

The Use of Force Review Board will be comprised of the following persons:

- A designee of the Chief Probation Officer who shall act as the Chairperson
- A Division Director designated by the Chief Probation Officer

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- A Shift Supervisor designated by the Chief Probation Officer

302.4.2 RESPONSIBILITIES OF THE BOARD

The Use of Force Review Board is empowered to conduct an administrative review and inquiry into the circumstances of an incident.

The board members may request further investigation, request reports be submitted for the board's review, call persons to present information and request the involved employee to appear. The involved employee will be notified of the meeting of the board and may choose to have a representative through all phases of the review process.

The board does not have the authority to recommend discipline.

The Chief Probation Officer will determine whether the board should delay its review until after completion of any criminal investigation, review by any prosecutorial body, filing of criminal charges the decision not to file criminal charges, or any other action. The board should be provided all relevant available material from these proceedings for its consideration.

Absent an express waiver from the employee, no more than two members of the board may ask questions of the involved employee (Government Code § 3303). Other members may provide questions to these members.

The review shall be based upon those facts which were reasonably believed or known by the officer at the time of the incident, applying any legal requirements, department policies, procedures and approved training to those facts. Facts later discovered but unknown to the officer at the time shall neither justify nor call into question an officer's decision regarding the use of force.

Any questioning of the involved employee conducted by the board will be in accordance with the department's disciplinary procedures, the Personnel Complaints Policy, the current collective bargaining agreement and any applicable state or federal law.

The board shall make one of the following recommended findings:

- (a) The employee's actions were within department policy and procedure.
- (b) The employee's actions were in violation of department policy and procedure.

A recommended finding requires a majority vote of the board. The board may also recommend additional investigations or reviews, such as disciplinary investigations, training reviews to consider whether training should be developed or revised, and policy reviews, as may be appropriate. The board chairperson will submit the written recommendation to the Chief Probation Officer.

The Chief Probation Officer shall review the recommendation, make a final determination as to whether the employee's actions were within policy and procedure and will determine whether any additional actions, investigations or reviews are appropriate. The Chief Probation Officer's final findings will be forwarded to the involved employee's Division Director for review and appropriate

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action. If the Chief Probation Officer concludes that discipline should be considered, a disciplinary process will be initiated.

At the conclusion of any additional reviews, copies of all relevant reports and information will be filed with the Chief Probation Officer.

Handcuffing and Restraints

306.1 PURPOSE AND SCOPE

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

306.2 POLICY

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

306.3 USE OF RESTRAINTS

Only members who have successfully completed Monterey County Probation Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

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

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

306.3.1 RESTRAINT OF DETAINEES

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

306.3.2 RESTRAINT OF PREGNANT PERSONS

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

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

306.3.3 RESTRAINT OF JUVENILES

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

306.3.4 NOTIFICATIONS

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

306.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

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

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

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

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

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

306.5 APPLICATION OF SPIT HOODS

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

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

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

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

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

306.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

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

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

306.7 APPLICATION OF LEG RESTRAINT DEVICES

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

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

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

306.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

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

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

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

306.8 TRAINING

Subject to available resources, the Training PSM should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

- (a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.
- (b) Response to complaints of pain by restrained persons.
- (c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.
- (d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

Control Devices and Techniques

308.1 PURPOSE AND SCOPE

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

308.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Monterey County Probation Department authorizes officers to use control devices in accordance with the guidelines in this policy and the Use of Force Policy.

308.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

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

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

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

308.4 RESPONSIBILITIES

308.4.1 PROBATION SERVICES MANAGER RESPONSIBILITIES

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

308.4.2 EQUIPMENT OFFICER RESPONSIBILITIES

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

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

308.4.3 USER RESPONSIBILITIES

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

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

308.5 BATON GUIDELINES

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

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

308.6 OLEORESIN CAPSICUM (OC) GUIDELINES

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

308.6.1 OC SPRAY

Field personnel carrying OC spray shall carry the device in its holster on the equipment belt. Non-field personnel may carry OC spray as authorized, in accordance with the needs of their assignment or at the direction of their supervisor.

308.6.2 TREATMENT FOR OC SPRAY EXPOSURE

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

308.7 TRAINING FOR CONTROL DEVICES

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

- (a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.
- (b) All training and proficiency for control devices will be documented in the officer's training file.
- (c) Officers who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of

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Force Policy after remedial training, the officer will be restricted from carrying the control device and may be subject to discipline.

308.8 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

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

Officer-Involved Shootings and Deaths

309.1 PURPOSE AND SCOPE

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

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

309.2 TYPES OF INVESTIGATIONS

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

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

309.3 JURISDICTION

The agency where the incident occurred has criminal jurisdiction and is responsible for the criminal investigation of the incident. That agency may relinquish its criminal investigation of the suspect(s) to another agency. The Monterey County Probation Department will conduct timely civil and/or administrative investigations.

309.4 INVESTIGATION PROCESS

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

309.4.1 UNINVOLVED OFFICER RESPONSIBILITIES

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

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

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309.4.2 SHIFT SUPERVISOR RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Shift Supervisor shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief Probation Officer or a Division Director.

All outside inquiries about the incident shall be directed to the Chief Probation Officer.

309.4.3 NOTIFICATIONS

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

- Chief Probation Officer
- Assistant Chief Probation Officer
- Division Director
- Internal Affairs PSM
- Psychological/Peer support personnel
- Officer representative (if requested)

309.4.4 SUPERVISOR RESPONSIBILITIES

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

- (a) Attempt to obtain a brief overview of the situation from any uninvolved officers.
 1. In the event that there are no uninvolved officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved officer.
- (b) If necessary, the supervisor may administratively order any MCPD officer to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.
 1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.
 2. The initial on-scene supervisor should not attempt to order any involved officer to provide any information other than public safety information.
- (c) Provide all available information to the Shift Supervisor and the Communications Center. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional MCPD members until properly relieved by another supervisor or other assigned personnel or investigator.
- (e) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to a suitable location for further direction.

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1. Each involved MCPD officer should be given an administrative order not to discuss the incident with other involved officers or MCPD members pending further direction from a supervisor.
2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other officers.

309.4.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
 1. Involved MCPD officers shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
 2. Requests from involved non-MCPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.
- (c) Discussions with agency representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).
- (d) A licensed psychotherapist shall be provided by the Department to each involved MCPD officer. A licensed psychotherapist may also be provided to any other affected MCPD members, upon request.
 1. Interviews with a licensed psychotherapist will be considered privileged.
 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
 3. A separate fitness-for-duty exam may also be required.
- (e) Although the Department will honor the sensitivity of communications with peer counselors, there is no legal privilege to such communications. Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer.

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

Each involved MCPD officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Shift Supervisor to make schedule adjustments to accommodate such leave.

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309.4.6 NOTIFICATION TO DEPARTMENT OF JUSTICE

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

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

309.5 CRIMINAL INVESTIGATION

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

If available, investigative personnel from this department may be assigned to partner with investigators from outside agencies or the District Attorney's Office to avoid duplicating efforts in related criminal investigations.

Once public safety issues have been addressed, criminal investigators should be given the opportunity to obtain a voluntary statement from involved officers and to complete their interviews. The following shall be considered for the involved officer:

- (a) MCPD supervisors and Internal Affairs PSM personnel should not participate directly in any voluntary interview of MCPD officers. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.
- (b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of the officer's choosing or an attorney prior to speaking with criminal investigators. However, in order to maintain the integrity of each involved officer's statement, involved officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.
- (c) If any involved officer is physically, emotionally, or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

309.6 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an officer-involved shooting or death, this department will conduct an internal administrative investigation of MCPD officers to determine conformance with department policy. The investigation will be conducted under the supervision of the Internal Affairs PSM and will be considered a confidential officer personnel file.

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

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- (a) Any officer involved in a shooting or death may be requested or administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any officer has voluntarily elected to provide a statement to criminal investigators, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved officer.
 - 1. If a further interview of the officer is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved officer shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews.
- (c) In the event that an involved officer has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.
 - 1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the officer's physical and psychological needs have been addressed before commencing the interview.
 - 2. If requested, the officer shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual officer's statement, involved officers shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).
 - 3. Administrative interviews should be recorded by the investigator. The officer may also record the interview (Government Code § 3303(g)).
 - 4. The officer shall be informed of the nature of the investigation. If an officer refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The officer shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
 - 5. The Internal Affairs PSM shall compile all relevant information and reports necessary for the Department to determine compliance with applicable policies.
 - 6. Regardless of whether the use of force is an issue in the case, the completed administrative investigation shall be submitted to the Use of Force Review Board, which will restrict its findings as to whether there was compliance with the Use of Force Policy.
 - 7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

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309.7 CIVIL LIABILITY RESPONSE

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

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

309.8 DEBRIEFING

Following an officer-involved shooting or death, the Monterey County Probation Department should conduct both a critical incident/stress debriefing and a tactical debriefing.

309.9 MEDIA RELATIONS

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

Firearms

311.1 PURPOSE AND SCOPE

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

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

This policy only applies to those members who are authorized to carry firearms.

311.1.1 LEGAL AUTHORITY TO CARRY AND USE A FIREARM

The peace officer status of probation officers is created in Penal Code § 830.5:

"The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Except as specified in this section, these peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency: (emphasis added)

... probation officer, or deputy probation officer"

The probation officer's use of peace officer powers is defined and limited to on-duty hours by statute, court decisions and opinions of the California Attorney General's Office. Penal Code § 830.5 (a) reads in part, "Except as otherwise provided in this subdivision, the authority of these probation officers shall extend only as follows:

- (a) To conditions of parole or of probation by any person in this state on parole or probation.
- (b) To the escape of any inmate or ward from a state or local institution.
- (c) To the transportation of persons on parole or probation.
- (d) To violations of any penal provisions of law that are discovered while performing the usual or authorized duties of his or her employment.
- (e) To the rendering of mutual aid to any other law enforcement agency.

Probation officers' authority to carry and use firearms on-duty shall be consistent with these provisions of the Penal Code and shall be limited by the terms and conditions specified by this policy. Probation officers authorized to carry firearms on duty are required, pursuant to 830.5(d) of the Penal Code, to meet the training requirements of 832 P.C. and to qualify with the firearm at least quarterly. Nothing in this policy shall be considered or construed as conferring on the probation officer authority beyond that granted by the Penal Code. Probation officers authorized to carry firearms shall comply with the requirements of the Penal Code and these policies.

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Any consequences of liability of any kind arising out of any act or incident involving the use or carrying of any firearm during off-duty hours shall be the sole, personal responsibility of the officer. The County assumes no liability or responsibility for such, off-duty use of a firearm by an officer, and any act or incident shall not be deemed an official or permitted act or incident or the exercise of peace officer "authority."

Any misuse of a firearm off-duty by an officer may subject that officer to disciplinary action up to and including termination, in addition to any civil or criminal action to which the officer may be subjected.

311.1.2 AUTHORIZATION TO CARRY A FIREARM ON DUTY

The Department will not order an officer to be armed and may restrict duty assignments accordingly.

Probation officers authorized to carry a firearm are encouraged to carry their weapon at all times while on duty. In any event, armed personnel should have their firearms and all authorized safety equipment readily available to them while on duty.

The Arming Authorization shall be in writing and shall be signed by the Chief Probation Officer. No probation officer shall carry a firearm on his/her person at any time or have a firearm in his/her possession in the office or any other job location or in his/her vehicle without the prior written authorization of the Chief Probation Officer obtained pursuant to these policies and procedures.

The signed Arming Authorization form shall be kept in the probation officer's personnel file with copies to the Departmental Training PSM and Range Administrator.

The authorization to carry a firearm shall be subject to ongoing periodic review by the Chief Probation Officer.

The Chief Probation Officer may approve or deny any request by a probation officer to be armed on a case-by-case basis subject to any terms and limitations deemed appropriate within the sole discretion of the Chief Probation Officer.

The Chief Probation Officer may, at any time, for any reason or without cause, revoke the authority of any probation officer to carry a firearm on duty. The probation officer shall immediately be informed of the revocation and, if necessary, transferred to an assignment not requiring arming. A copy of the written revocation shall be delivered to the officer within five (5) working days, and a copy shall be placed in the probation officer's personnel file.

311.2 AUTHORIZED WEAPONS

No firearms will be carried that have not been thoroughly inspected by the Rangemaster during a regularly scheduled range date. Except in an emergency or as directed by a supervisor, no firearm shall be carried by a member who has not qualified with that weapon at an authorized department range.

All other weapons, including but not limited to, edged weapons, chemical or electronic weapons, impact weapons or any weapon prohibited or restricted by law or that is not covered elsewhere

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by department policy, may not be carried by personnel in the performance of their official duty without the express written authorization of the employee's Division Director. This exclusion does not apply to the carrying of a single folding pocketknife that is not otherwise prohibited by law.

311.2.1 DUTY WEAPONS

The department issued/authorized handgun is the Glock Model 17 9mm pistol.

311.2.2 CARRYING THE FIREARM

- (a) Probation officers authorized to carry firearms shall only carry firearms that have been issued by the department or approved by the Chief Probation Officer and with which the probation officer has qualified pursuant to these policies.
- (b) The authorized and approved firearm must be encased in a holster approved by the Rangemaster.
- (c) The firearm will be fully loaded with a round chambered.
- (d) Whenever an armed probation officer is in the field (i.e., on a school campus, conducting home visits, etc.) the officer shall carry the firearm in an approved level III retention holster.
- (e) Any probation officer authorized to carry a firearm shall have in his/her possession, whenever carrying a firearm, his/her department issued badge and identification card. The badge should be clearly displayed.
- (f) Probation officers authorized to carry firearms shall wear department authorized body armor at all times while on duty and engaged in out of office field activities, unless otherwise authorized by the Chief Probation Officer.
- (g) Probation Officers authorized to carry firearms shall carry a minimum of one less than lethal force option (i.e. O.C. spray and/or ASP baton) while on duty and engaged in out of office field activities.
- (h) If an armed officer is performing administrative duties (i.e., office work, Court appearance, etc.) the officer may carry the firearm in any approved holster. If the holster is less than a level III retention holster the firearm shall be concealed at all times.
- (i) Pursuant to protocols set by the Superior Court of California, County of Monterey, non-uniformed peace officers are required to inform the bailiff upon entering the courtroom that they are an armed peace officer. No peace officer is permitted to enter armed when attending court on personal business (e.g. traffic ticket, divorce, etc) and must leave their firearm outside the courthouse while attending non-official court business.

311.2.3 AMMUNITION

Officers shall carry only department-authorized ammunition. Officers shall be issued fresh duty ammunition in the specified quantity for all department issued firearms during the officer's first scheduled qualification each year. Officers carrying personally owned authorized firearms of a

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caliber differing from department issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above at their own expense. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed in accordance with established policy.

311.2.4 RESTRICTIONS ON CARRYING FIREARMS

Probation officers who have been authorized to be armed are prohibited from carrying or using firearms under the following conditions:

- (a) Weapons shall not be carried by any officer who has consumed any alcoholic beverage or taken any drugs that would tend to adversely affect the officer's senses or judgment.
- (b) While injured or in a physical condition causing inability to utilize a firearm effectively or properly, i.e., broken arm, eye injury causing impaired vision, etc.
- (c) While on disciplinary or investigative suspension.
- (d) While on leave of absence without pay, or other period of unpaid absence from the Department or while on Workers' Compensation status.
- (e) When authorization to carry a firearm has been revoked.
- (f) The officer has been directed by the Rangemaster or a superior officer to cease carrying a firearm.
 1. Any officer directed to cease carrying a firearm shall immediately surrender his/her firearm (if owned by the Department) and shall immediately cease carrying any firearm on-duty.
 2. If a suspension of authority to carry a firearm has been made, the person ordering the suspension shall submit a written report, within three (3) working days, to the Chief Probation Officer, indicating the circumstances that led to the suspension. A copy of the report shall be made available or mailed to the probation officer within one (1) workday following submission of the report.
 3. A written request for a review of any suspension may be made by the officer to the Chief Probation Officer within ten (10) working days of the officer's receipt of notification of suspension of authority to carry a firearm. The written request shall clearly state the reason(s) the authorization should be reinstated or specific objections to the decision. The Chief Probation Officer shall then make a determination whether or not to revoke the authorization. The Chief Probation Officer's decision is final and shall not be or become the basis for any grievance.

311.2.5 STOLEN OR LOST FIREARMS

- (a) A probation officer shall file a report with the appropriate law enforcement agency immediately upon discovery that his/her on-duty firearm is missing.

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- (b) A probation officer shall also immediately report a lost or stolen firearm to his/her supervisor, who will notify the Chief Probation Officer via the chain of command.
- (c) The probation officer will file a written report regarding the matter with their supervisor by the end of the assigned shift. The written report shall be submitted to the Chief Probation Officer through the chain of command.
- (d) The probation officer may be required to reimburse the Department in the event that a Department-owned firearm and related equipment is lost through negligence of the probation officer as per County policy. This requirement may be imposed in addition to any disciplinary action imposed by the Department for the officer's negligence.
- (e) Arrangements may be made for the temporary or permanent issuance of another firearm if the Chief Probation Officer or Division Director authorizes such issuance. The officer shall qualify with the newly issued firearm before authorization to carry the firearm on-duty shall become effective.

311.3 SAFE HANDLING OF FIREARMS

The intent of this policy is to promote proper firearm safety on and off duty. Employees shall maintain the highest level of safety when handling firearms and shall consider the following:

311.3.1 SAFETY CONSIDERATIONS

- (a) Every firearm handled shall be treated as a loaded firearm. Officers shall not unnecessarily display or handle any firearm.
- (b) Any unholstered firearm that is brought into a Probation Department facility shall first be unloaded.
- (c) Officers shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Officers shall not dry fire or practice quick draws except under Rangemaster supervision.
- (d) The cleaning of a firearm in an office-setting, vehicle, or in the field is prohibited except when the firearm has been fouled by a foreign substance that might render it inoperable. In those instances, all safety precautions must be taken when cleaning the firearm.
- (e) All firearms equipped with safety devices shall be placed in a "safe" condition except when use is imminent.
- (f) Any firearm authorized by the department that is found by the officer to be malfunctioning or needing service shall not be carried and shall be promptly presented to the department or Rangemaster for inspection. Any firearm determined to be in need of service or repair during an inspection by the department Rangemaster, will be immediately removed from service. If the firearm is the officer's primary duty weapon, a replacement firearm will be issued to the officer until the duty weapon is again rendered serviceable.

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311.3.2 STORAGE AT HOME

Members shall ensure that all firearms and ammunition are locked and secured while in their homes, vehicles or any other area under their control, and in a manner that will keep them inaccessible to children and others who should not have access (Penal Code § 25100).

Members shall not permit department-issued firearms to be handled by anyone who is not authorized by the Department to do so.

Members shall be aware that negligent storage of a firearm could result in civil and criminal liability (Penal Code § 25100).

311.3.3 STORAGE OF FIREARMS WHILE ON-DUTY

Firearm security is the responsibility of the probation officer to whom the firearm is assigned. Probation officers authorized to carry firearms are charged with the responsibility to observe and practice the following storage regulations:

- (a) When not being carried during duty hours, the firearm and ammunition shall be stored in a secure and safe place that is not readily accessible to unauthorized persons. The firearm shall not be stored in a place where it is visible to anyone. If possible, the firearm should remain in the holster when being stored.
- (b) Firearms shall not be kept in the unit office overnight.
- (c) Firearms are not to be stored overnight at any time in a County vehicle or private vehicle.
- (d) Under no circumstances may a firearm, ammunition, and/or other item, which threatens the security of a correctional facility, be brought into such facility, or be left in any unattended/unlocked vehicle on institutional grounds. Follow the procedures of the correctional facility as to safe storage of these items.
- (e) Prior to conducting an interview in a probation department interview room, the probation officer shall store the firearm in a secure and safe place that is not accessible to unauthorized persons.

311.4 FIREARMS QUALIFICATIONS

Any probation officer authorized to carry and use a firearm must be certified as currently qualified to do so by the Rangemaster.

- (a) The minimum qualifying score for each type of firearm shall be established by the Rangemaster and approved by the Chief Probation Officer.
- (b) Probation officers shall comply with the Rangemaster's policies and directions.
- (c) The Training PSM shall administer a firearm qualification program in liaison with the Rangemaster that ensures competency among all probation officers authorized to carry firearms.

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- (d) Each probation officer authorized to carry a firearm shall qualify quarterly.
- (e) Any probation officer who fails to qualify shall have his/her authorization to carry a firearm suspended. This suspension will remain in effect until the individual receives additional training and qualifies. Continued failure to qualify will result in revocation of the authorization to carry a firearm.
- (f) Probation officers must qualify with their Department issued firearm and/or approved firearm. Officers not qualified with a particular weapon are not authorized to carry that weapon until they become qualified with it.
- (g) Qualification shall be during normal working hours. Request for qualification outside of regular working hours may be approved by the Probation Services Manager and scheduled with the Rangemaster.
- (h) The Training PSM and/or the Rangemaster shall prepare and submit a quarterly firearms qualification report to the Chief Probation Officer.
- (i) A probation officer may, with the Probation Services Manager's approval, be authorized additional on-duty hours for practice to improve proficiency in the use of a firearm. Arrangements will be made for additional firearms practice under the supervision of the Rangemaster.

311.4.1 REQUIRED TRAINING

A probation officer must satisfactorily complete all training and qualification pursuant to this policy prior to being authorized to carry a firearm. Required training includes:

- (a) Defensive Tactics training
- (b) Cardiopulmonary Resuscitation and First Aid certification
- (c) A course on the Departmental policies concerning the carrying of firearms by probation officers.
- (d) The ethical and moral considerations of the use of firearms and deadly physical force.
- (e) Courses concerning the legal considerations for the carrying and use of firearms, including:
 - 1. The laws governing arrests and searches incident to arrests
 - 2. The laws of self-defense and the use of force by peace officers
 - 3. The civil liabilities of probation officers

The Departmental Training PSM shall monitor all legislative and policy changes relating to the use of firearms by peace officers and shall provide necessary updated training in a timely manner.

The Departmental Training PSM shall maintain the training records of all probation officers authorized to carry firearms and shall promptly notify the Chief Probation Officer and the

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appropriate Probation Services Manager when any such probation officer is not in compliance with the Department's training requirements.

311.4.2 OTHER REQUIREMENTS

Probation officers must also be able to provide a practical demonstration of at least the following:

- firearm safety
- shooting proficiency during scenario-based training
- weapon retention
- all less than lethal self defense options for which the officer is certified
- the care and cleaning of an authorized weapon

311.5 WARNING AND OTHER SHOTS

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

311.5.1 STORAGE IN VEHICLES

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

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

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

311.6 DESTRUCTION OF ANIMALS

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

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

311.6.1 INJURED ANIMALS

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

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

311.7 REPORT OF FIREARM DISCHARGE

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

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

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

311.8 RANGEMASTER DUTIES

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

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

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

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

The Rangemaster shall complete and submit to the Training PSM documentation of the training courses provided. Documentation shall include the qualifications of each instructor who provides the training, a description of the training provided and, on a form that has been approved by the Department, a list of each member who completes the training. The Rangemaster should keep

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accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Training PSM.

311.8.1 RANGE ADMINISTRATOR DUTIES

The Assistant Chief Probation Officer shall serve as the Range Administrator. The Range Administrator shall maintain training records of armed personnel and process arming requests. Department employees who have been assigned by the Chief Probation Officer to facilitate the quarterly qualifications of armed staff or other training related to arming will be known as Rangemasters.

Rangemasters must be qualified through an approved Rangemaster School, e.g. Federal Bureau of Investigation, Gunsite Training Center, Inc., or State Department of Justice.

311.9 MAINTENANCE AND REPAIR

Firearms carried on duty shall be maintained in a clean, serviceable condition. Since the use of personally owned weapons is at the option of the individual officer, that officer will be responsible for the furnishing, maintenance and repair of such weapon.

311.9.1 REPAIR OR MODIFICATIONS OF DUTY WEAPONS

The Rangemaster shall be the only person authorized to repair or modify any department-owned weapon. All repairs and/or modifications of department issued weapons not performed by the Rangemaster must be approved in advance by the Rangemaster and accomplished by a department approved gunsmith.

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

311.10 FLYING WHILE ARMED

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

- (a) Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure purposes.
- (b) Officers must carry their Department identification card which must contain a full-face picture, the officer's signature and the signature of the Chief Probation Officer or the official seal of the Department and must present this identification to airline officials when requested. The officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver's license, passport).
- (c) The Monterey County Probation Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the officer's travel. If approved, TSA will send the Monterey County Probation Department an NLETS message containing a unique alphanumeric identifier. The officer must present the

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message to airport personnel as authorization to travel while armed on the day of travel.

- (d) An official letter signed by the Chief Probation Officer authorizing armed travel must accompany the officer. The letter must outline the officer's need to fly armed, must detail his/her itinerary, and should include that the officer has completed the mandatory TSA training for law enforcement officer flying while armed.
- (e) Officers must have completed the mandated TSA security training covering officers flying while armed. The training shall be given by the department-appointed instructor.
- (f) It is the officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification can be accomplished by early check-in at the carrier's check-in counter.
- (g) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The officers must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (h) Officers should not surrender their firearm but should try to resolve any problems through the flight captain, ground security manager or other management representative of the air carrier.
- (i) Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

311.11 CARRYING FIREARMS OUT OF STATE

Qualified active full-time officers and qualified retired officers (see Policy Manual § 220) of this department are authorized to carry a concealed firearm in all other states subject to the following conditions (18 USC 926B and C):

- (a) The officer shall carry his/her Department identification card whenever carrying such weapon.
- (b) Qualified retired officers shall also carry certification of having met firearms qualification within the past 12 months.
- (c) The officer is not the subject of any current disciplinary action.
- (d) The officer may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.
- (e) The officer will remain subject to this and all other Department policies (including qualifying and training).

Officers are cautioned that individual states may enact local regulations that permit private persons or entities to prohibit or restrict the possession of concealed firearms on their property, or that prohibit or restrict the possession of firearms on any state or local government property,

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installation, building, base or park. Federal authority may not shield an officer from arrest and prosecution in such locally restricted areas.

Visiting active and retired peace officers from other states are subject to all requirements set forth in 18 USC 926B and C.

Body Armor

314.1 PURPOSE AND SCOPE

Practical safety measures should be used to reduce the risks and hazards associated with probation field work. The Department provides soft body armor for sworn field personnel in an effort to improve safety.

314.2 USE OF BODY ARMOR

Soft body armor vests are issued to all sworn field personnel because they have been shown to be effective in reducing deaths and serious injuries.

The Department encourages all on-duty field officers to wear body armor. Their use in some instances is required.

Probation officers authorized by the department to carry a firearm while on duty shall wear department-issued or department-approved body armor while doing any field work.

Unarmed officers should wear body armor while in the field, performing probation searches, and/or other enforcement activities.

314.3 EXCEPTIONS

An armed officer will not be required to wear body armor under the following conditions:

- (a) While in the office
- (b) After a house has been secured, and a search is being conducted, provided there is reasonable security and the safety of the officer is reasonably assured
- (c) When attending court hearings
- (d) When off duty

Other exceptions to this policy are to be approved by the unit Probation Services Manager, or the Deputy Probation Officer III in the absence of the PSM, on a case by case basis.

Search and Seizure

321.1 PURPOSE AND SCOPE

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

321.2 POLICY

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

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

321.3 SEARCHES

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

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

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

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

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

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

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321.4 SEARCH PROTOCOL

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

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

321.5 DOCUMENTATION

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

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

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

Each probation search shall be clearly documented in the case file and the Probation Services Manager search log, and as otherwise directed by policy.

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321.6 PROBATION SEARCHES

All probation searches shall be conducted in accordance with this policy in a thorough and professional manner that demonstrates consideration for the rights and property of the probationers.

All searches shall be related to a proper probation purpose. This includes searches done to deter further offenses by the probationer and searches to ascertain whether the probationer is complying with the terms of probation. Searches shall be consistent with the scope of the probation order and shall not be conducted for harassment or for arbitrary and capricious reasons (*People v. Bravo*).

Any Peace Officer may apply the search and seizure condition of probation if authorized by the Court order granting probation. The deputy probation officer shall verify the existence of a valid search condition upon request from any law enforcement agency. If a law enforcement agency contacts the department during duty hours requesting assistance for a probation search, the deputy probation officer should advise the PSM of the request. A copy of the Court order that includes the search condition should be faxed to the requesting law enforcement officer. The probation officer should document the date and time, the name of the officer to whom the information was provided and the agency. If for any reasons it is unclear whether a valid search can be conducted, the Probation Services Manager shall either contact the District Attorney's Office or refer the requesting law enforcement agency to the District Attorney's Office.

Probation searches are limited to areas and property governed by the search order. Within those areas, probation searches are permitted of the probationer's property and those areas that the probationer jointly controls (*People v. Palmquist*). Consent of the probationer or any other person sharing occupancy or ownership is not required, but should be sought and obtained if practical.

Neither the probationer's presence nor the presence of any other common occupant or owner is necessary for the search of the residence, vehicle, or property of the probationer (*People v. Lilienthal*). The probationer must be given notice of the reason and purpose of the search in advance of the search only if the probation condition actually requires such advance notice (*People v. Mason*). For purposes of officer safety, the probationer or any person present may be handcuffed during the search.

For residential searches, Section 1531 and Section 844 PC prescribe "knock and notice" rules which permit entry in the absence of any occupant and which permit entry of any residence without consent for good cause.

Officer safety is the controlling factor during any search. In the event of a perceived threat to life or limb, when practical, officers are directed to withdraw and seek assistance from local law enforcement.

Unarmed probation officers conducting residential searches should be accompanied either by armed probation officers or local law enforcement. A probation officer shall not conduct any search alone, except as needed for officer safety.

All planned searches by Probation personnel shall be referred to the Probation Services Manager.

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Search and Seizure

321.6.1 MULTI-AGENCY SEARCHES

Multiagency searches shall be conducted as follows:

- (a) A Probation Services Manager or his/her designee shall be present as Officer in Charge (OIC).
- (b) Each team will have a designated probation officer leader who will have final authority as to how the search will be conducted and shall keep the OIC advised of any unusual circumstances including those issues that may generate a citizen complaint.
- (c) A search plan will be prepared for each individual search.
- (d) A probation case agent will be assigned for each individual search. The case agent shall prepare the necessary reports, collect evidence and forward copies to the Probation Services Manager and the case file.

Forced Entry

322.1 POLICY

The use of forced entry to enter a residence or other dwelling to accomplish an arrest or detention will not be routinely done. However, there may be occasions when this tactic is the only reasonable alternative available. Forced entry is permitted in situations where the safety of the probationer or others is in immediate jeopardy or the instant circumstances otherwise require immediate arrest or detention. Situations that may require forced entry include, but are not necessarily limited to, the following:

- (a) The probationer's life is in danger as a result of a suicide attempt or accidental drug overdose.
- (b) The probationer's activities are such that his/her or other's safety is in immediate jeopardy.
- (c) If an arrest or detention is not immediately accomplished, the safety of others, including the probationer, will be jeopardized.
- (d) If the probationer is believed to be in the process of destroying evidence.

322.1.1 KNOCK AND NOTICE

Before forced entry can be accomplished, Section 844 of the Penal Code requires that the Deputy Probation Officer must knock, demand entrance, and explain the purpose before entering the residence by force. This requirement can be waived if knocking and announcing will increase the danger of the risk of evidence being destroyed.

If the need to force entry is anticipated, prior approval of the unit supervisor is to be obtained and other law enforcement agencies more accustomed to such practices are to be asked to assist.

Evidence Collection and Chain of Custody

324.1 PURPOSE AND SCOPE

The collection, preservation and chain of custody of evidence by a probation officer may be a crucial factor in determining the outcome of a case.

- (a) In the event that contraband is located relating to a new law violation (e.g., illegal weapon, stolen property or drugs), the probation officer shall make every effort not to disturb the item and contact the local law enforcement for assistance.
- (b) Upon collecting evidence relating to a violation of probation (e.g., gang paraphernalia, gang clothing, gang indicia, knife, marijuana paraphernalia) the probation officer shall immediately complete the Receipt for Property and Chain of Custody form and provide a copy to the probationer or persons residing in the home.
- (c) Only property related to a violation of probation may be seized. Probation officers shall not seize property to hold a violation of probation in abeyance.

324.2 EVIDENCE COLLECTION AND STORAGE

The probation officer shall place the evidence in an evidence bag and relinquish it as soon as applicable to a designated Probation Department Evidence Custodian. If the Evidence Custodian is not immediately available to receive seized property, the Deputy Probation Officer shall place the property in a short-term evidence locker and notify the Evidence Custodian of the location and number of the locker, along with a description of the seized property. The Evidence Custodian or his/her designee shall retrieve the seized property prior to the end of the next business day and indicate on the Chain of Custody form that he or she received the evidence and placed it in a designated long-term evidence locker. There will be long-term evidence lockers maintained at the Juvenile Probation building and the Administration Building.

The original Chain of Custody form shall be placed and maintained in the evidence locker folder. Copies of the Chain of Custody form shall be distributed as follows:

- (a) A copy to the probationer or residents of the home upon the seizure of property. If no responsible party is present at the time of the seizure, a copy shall be left in a conspicuous place inside the residence.
- (b) A copy attached to the evidence bag.
- (c) A copy to the probation case file.

The original Chain of Custody form shall be completed and updated by all parties upon relinquishing and accepting the evidence.

324.2.1 DISPOSITION OF EVIDENCE

The Probation Department Evidence Custodian shall keep a log of all collected evidence stored in the long-term evidence locker under his/her control, as well as the outcome of each case. The

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evidence shall be destroyed or otherwise disposed of pursuant to court order. The Chief Probation Officer may authorize the retention of the evidence for training purposes. Any seized contraband shall not be otherwise possessed and/or displayed.

Senior and Disability Victimization

325.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation and reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Monterey County Probation Department members as required by law (Penal Code § 368.6).

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

325.2 DEFINITIONS

Definitions related to this policy include:

Adult Abuse - Any offense or attempted offense involving violence or neglect of adults over the age of 65 or any offense or attempted offense involving a dependent adult victim committed by a caregiver. This also includes any other act that would mandate notification to a social service/licensing agency or law enforcement related to the abuse of an adult (Welfare and Institutions Code § 15610.07; Welfare and Institutions Code § 15610.27; Welfare and Institutions Code § 15610.23).

Dependent Adult - Any person residing in this state, between 18 and 64 years of age, who has physical or mental limitations that restrict his/her ability to carry out normal activities or to protect his/her rights including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age. This includes any person between 18 and 64 years of age who is admitted as an inpatient to a 24-hour health facility, as defined in state law (Health and Safety Code § 1250; Health and Safety Code § 1250.2; Health and Safety Code § 1250.3).

325.3 MANDATORY NOTIFICATION

Any member who has observed or has knowledge of an incident that reasonably appears to be adult abuse, is told by an elder or dependent adult that he/she has experienced abuse or who reasonably suspects abuse, shall report to the county adult protective services agency as soon as practicable as provided in Welfare and Institutions Code § 15630.

For purposes of notification, abuse is physical abuse, abandonment, abduction, isolation, financial abuse or neglect. Physical abuse includes any assault or sex crime (Welfare and Institutions Code § 15610.63). Financial abuse includes taking personal or real property by undue influence or intent to defraud (Welfare and Institutions Code § 15610.30). Notification is also made in cases of abandonment, abduction, isolation and neglect (Welfare and Institutions Code § 15610.05;

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Welfare and Institutions Code § 15610.06; Welfare and Institutions Code § 15610.43; Welfare and Institutions Code § 15610.57).

Failure to make a report within two working days or as provided is a misdemeanor (Welfare and Institutions Code § 15630(h)).

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

Discriminatory Harassment

327.1 PURPOSE AND SCOPE

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

327.2 POLICY

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

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

327.3 DEFINITIONS

Definitions related to this policy include:

327.3.1 DISCRIMINATION

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

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

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

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327.3.2 SEXUAL HARASSMENT

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

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

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

327.3.3 ADDITIONAL CONSIDERATIONS

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

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

327.3.4 RETALIATION

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

327.4 RESPONSIBILITIES

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

Members are encouraged to promptly report any discriminatory, retaliatory or harassing conduct or known violations of this policy to a supervisor. Any member who is not comfortable with reporting violations of this policy to his/her immediate supervisor may bypass the chain of command and make the report to a higher ranking supervisor or manager. Complaints may also be filed with the Chief Probation Officer or Human Resources Management Analyst.

Any member who believes, in good faith, that he/she has been discriminated against, harassed, subjected to retaliation, or who has observed harassment or discrimination, is encouraged to promptly report such conduct in accordance with the procedures set forth in this policy.

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

327.4.1 SUPERVISOR RESPONSIBILITIES

The responsibilities of each supervisor and manager shall include, but are not limited to:

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

327.4.2 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

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

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

327.5 INVESTIGATION OF COMPLAINTS

Various methods of resolution exist. During the pendency of any such investigation, the supervisor of the involved member should take prompt and reasonable steps to mitigate or eliminate any continuing abusive or hostile work environment. It is the policy of the Department that all complaints of discrimination, retaliation, or harassment shall be fully documented and promptly and thoroughly investigated.

327.5.1 SUPERVISOR RESOLUTION

Members who believe they are experiencing discrimination, harassment, or retaliation should be encouraged to inform the individual that the behavior is unwelcome, offensive, unprofessional, or inappropriate. However, if the member feels uncomfortable or threatened or has difficulty

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expressing the member's concern, or if this does not resolve the concern, assistance should be sought from a supervisor or manager who is a rank higher than the alleged transgressor.

327.5.2 FORMAL INVESTIGATION

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

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

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

Members who believe they have been discriminated against, harassed or retaliated against because of their protected status, are encouraged to follow the chain of command but may also file a complaint directly with the Chief Probation Officer or the Human Resources Management Analyst.

327.5.3 ALTERNATIVE COMPLAINT PROCESS

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

327.6 NOTIFICATION OF DISPOSITION

Complainant and/or victim will be notified in writing of the disposition of the investigation and action(s) taken to remedy the complaint.

327.6.1 NOTIFICATION OF DISPOSITION

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

327.7 DOCUMENTATION OF COMPLAINTS

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

- Approved by the Chief Probation Officer
- Maintained for the period established in the department's records retention schedule

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327.8 TRAINING

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

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

327.8.1 STATE-REQUIRED TRAINING

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

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

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

327.8.2 TRAINING RECORDS

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

327.9 REQUIRED POSTERS

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

Child Abuse Reporting

329.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines and procedures for reports of suspected child abuse.

329.2 DEFINITIONS

For purposes of this section the following definitions are provided:

Child - A person under the age of 18 years.

Child abuse or neglect - Includes the following (Penal Code § 11165.6):

- Physical injury or death inflicted by other than accidental means upon a child by another person
- Sexual abuse as defined in Penal Code § 11165.1
- Neglect as defined in Penal Code § 11165.2
- The willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Penal Code § 11165.3
- Unlawful corporal punishment or injury as defined in Penal Code § 11165.4

Child abuse or neglect does not include an altercation between minors. Child abuse or neglect does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.

Child protective agency - A police or sheriff's department, a county probation department or a county welfare department. This section does not include school district police or security department.

329.3 CHILD ABUSE REPORTING

Pursuant to Penal Code § 11165.7, this department is defined as a "mandated reporter." All employees of this department are responsible for the proper reporting of child abuse.

Pursuant to Penal Code § 11166, any employee who encounters any child whom he or she reasonably suspects has been the victim of child abuse shall immediately or as soon as is practicably possible report the suspected child abuse to the Monterey County Child Protective Services and the local police agency with jurisdiction if appropriate. A written follow up report shall be prepared and sent, faxed, or electronically transmitted to the Monterey County Child Protective Services within 36 hours of receiving the information concerning the incident.

Transportation of Clients

330.1 POLICY

As part of the field supervision process, probation staff has the responsibility of transporting probationers who have been taken into custody. Probation staff should carefully plan the circumstances of the transportation including an assessment of potential problems when dealing with unstable or dangerous probationers, securing an appropriate county vehicle and acquiring assistance if needed. Unless it is absolutely unavoidable, probation staff shall not transport alone or transport a probationer of the opposite sex. Arrangements must be made for the assistance for another staff member or from another law enforcement agency.

- (a) Persons under arrest and being transported while in custody shall be handcuffed and searched for weapons and contraband per departmental policy. Prior to placing the arrestee into the County vehicle, the back seat area should be searched thoroughly. Once the vehicle is searched, the arrestee shall be placed in the back seat of the vehicle on the right hand side with the seat belt fastened on the arrestee.
- (b) Whenever possible, a caged car should be used for transportation. If one is not available, a non-caged car may be used however, another probation staff must sit in the back seat next to the arrestee/minor. If a portable radio is available, local law enforcement dispatch must be contacted and apprised of the arrest and the transport destination. When transporting an arrestee, always call in your starting point, mileage and your ending mileage.
- (c) Staff shall not use their own personal vehicles to transport clients.

Intranasal Naloxone Administration

331.1 PURPOSE AND SCOPE

This policy establishes procedures for the deployment of Intranasal Naloxone by Monterey County Probation Personnel in cases involving suspected opioid overdoses pursuant to Monterey County Emergency Medical Services (EMS) System Policy Number 4512, Law Enforcement Administration of Intranasal Naloxone (Narcan).

331.2 POLICY

Monterey County Probation Department sworn personnel shall be trained to administer Naloxone in accordance with mandated training guidelines as determined and established by the Monterey County EMS pursuant to Health & Safety Code 1797.197, California Civil Code 1714.22, and California Code of Regulations, Title 22, Division 9, Section 100017.

331.3 TRAINING

Only probation personnel who are trained in accordance with mandated training guidelines may deploy with Naloxone kits in the field or have access to Naloxone kits within Juvenile Hall and the Youth Center. Trained probation personnel will retain the discretion to administer or not administer Naloxone to persons experiencing or suspected of experiencing an opioid-related overdose. There is no legal obligation to administer Naloxone.

Only Probation personnel who have completed the training mandated by EMS may administer Naloxone. Retraining will be provided every two years.

Probation personnel who administer Naloxone are protected from civil and criminal liability if they “act with reasonable care” and “in good faith.” This is accomplished by administering Naloxone in accordance with established training protocol.

331.4 RESPONSIBILITIES

The Training PSM shall be designated as the Naloxone Program Coordinator for the department and work in collaboration with EMS.

The Division Directors will select one PSM from each participating location to serve as program manager for each location. Each program manager will be responsible for the storage, tracking, maintenance, and replacement of Naloxone kits, and reporting to the Program Coordinator.

The daily inspection of Naloxone kits will be the responsibility of Probation personnel who are assigned the kit for field deployment. Used, lost, or damaged Naloxone kits will be reported to the immediate supervisor and returned to the program manager for replacement.

331.5 NALOXONE DEPLOYMENT

The department will deploy Naloxone kits at office locations and other areas as deemed appropriate by the Chief Probation Officer or his or her designee.

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Naloxone kits will contain at a minimum; Naloxone, gloves, mask, and eye protection. The kits will be available for deployment in the field or as otherwise needed.

Naloxone kits must be returned to their regular storage areas as designated in each office location. Naloxone kits shall not be stored in vehicles for an extended period of time.

331.6 NALOXONE USE

Probation personnel who have completed the mandated Naloxone training shall follow the procedures established by EMS:

- A. Identify the victim of possible opioid overdose
- B. Ensure EMS has been activated
- C. Maintain standard blood and body fluid precautions and use personal protective equipment
- D. Stimulate the patient if unresponsive using sternal rub technique
- E. Ensure an open airway using Basic Life Support techniques
- F. Perform rescue breathing, if indicated, using bag-valve-mask or protective face shield
- G. If patient is in cardiac arrest as demonstrated by absence of life signs, begin CPR
- H. Administer 4.0 mg. intranasal Naloxone, following the procedure learned in training
- I. Continue CPR, rescue breathing, or provide other first aid as indicated
- J. Prepare for possible narcotic reversal behavior or withdrawal symptoms such as vomiting, agitation, aggression, irritability, etc.
- K. Notify responding EMS personnel of administration of Naloxone
- L. Report the use of Naloxone to the EMS Agency on the designated report form
- M. Replace the used Naloxone device with another intranasal Naloxone administration device.

331.7 DOCUMENTATION

Probation personnel will submit a Critical Incident Report detailing the nature of the incident, the care the patient received and the fact that Naloxone was administered.

331.8 PROCEDURE FOR REPORTING ADMINISTRATION OF INTRANASAL NALOXONE

- A. Following the use of Naloxone, complete the Law Enforcement Administration of Intranasal Naloxone (Narcan) Report by the end of shift and forward through the chain of command to the Office of the Chief Probation Officer.
- B. The Office of the Chief will send the report to the Monterey County EMS Agency within 48 hours of Naloxone use.

Probationers as Informants

332.1 POLICY

The Monterey County Probation Department will cooperate with the District Attorney's Office regarding the use of probationers as confidential informants under the following guidelines:

- (a) A probationer who requests or is requested to act as a confidential informant will be screened by a Probation Services Manager for appropriateness. The District Attorney's Office should provide the following information:
 1. Scope of involvement
 2. Duration of Activity
 3. Out of area travel requirements
- (b) If the District Attorney's Office uses a probationer as a confidential informant, all documents pertaining to the probationer's role as an informant will be kept in a separate, locked, confidential file and retained under the control of the PSM of the appropriate unit.
- (c) Under no circumstances will Probation Officers make informal agreements with probationers for their use as informants in order to hold in abeyance a violation of probation.
- (d) Should a probationer who is acting as a confidential informant commit a significant violation of probation, the supervising PSM will confer with the District Attorney's Office regarding the appropriate action to take.
- (e) Juveniles are not to be used as informants under any circumstances.

Sensitive/High Profile Cases

334.1 POLICY

Any case involving celebrities, well known members of the community, departmental employees or their families or other cases which have attracted special public attention are to be reviewed for classification as a sensitive case. Any time a case reaches the Department and by its nature appears to any employee to be a "sensitive case," this information shall be reported to the appropriate Director via the Supervisor.

The Probation Department shall provide services to sensitive cases, the Court and the community consistent with the treatment of other cases, while making every effort to insure that no favoritism or bias enters into the casework. These cases shall not receive any special treatment or consideration with regard to casework decisions made by the Probation Department regarding any aspect of the case.

If necessary, to avoid charges of bias or any questions of ethics, a Probation Services Manager may determine that preparation of a juvenile dispositional report or an adult presentence investigation report dealing with an employee, any member of an employee's family or any other person with what might be perceived to be close ties to this department should be transferred to another county. Arrangements are to be made by the PSM after discussion with the Division Director or the Office of the Chief.

Standards of Conduct

339.1 PURPOSE AND SCOPE

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

339.2 POLICY

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

339.3 DIRECTIVES AND ORDERS

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

339.3.1 UNLAWFUL OR CONFLICTING ORDERS

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

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

Unless it would jeopardize the safety of any individual, members who are presented with a lawful order that is in conflict with a previous lawful order, department policy or other directive shall respectfully inform the issuing supervisor of the conflict. The issuing supervisor is responsible for either resolving the conflict or clarifying that the lawful order is intended to countermand the previous lawful order or directive, in which case the member is obliged to comply. Members who are compelled to follow a conflicting lawful order after having given the issuing supervisor the opportunity to correct the conflict, will not be held accountable for disobedience of the lawful order or directive that was initially issued.

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

339.3.2 SUPERVISOR RESPONSIBILITIES

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

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

339.4 GENERAL STANDARDS

Members shall conduct themselves, whether on- or off-duty, in accordance with the United States and California constitutions and all applicable laws, ordinances, and rules enacted or established pursuant to legal authority.

Members shall familiarize themselves with policies and procedures and are responsible for compliance with each. Members should seek clarification and guidance from supervisors in the event of any perceived ambiguity or uncertainty.

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

339.5 CAUSES FOR DISCIPLINE

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

339.5.1 LAWS, RULES AND ORDERS

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

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339.5.2 ETHICS

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

339.5.3 DISCRIMINATION, OPPRESSION, OR FAVORITISM

Unless required by law or policy, discriminating against, oppressing, or providing favoritism to any person because of actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, economic status, cultural group, veteran status, marital status, and any other classification or status protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing the conduct is unlawful.

339.5.4 RELATIONSHIPS

- (a) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (b) Engaging in on-duty sexual activity, including but not limited to sexual intercourse, excessive displays of public affection, or other sexual contact.
- (c) Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect, or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
- (d) Associating with or joining a criminal gang, organized crime, and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.
- (e) Associating on a personal, rather than official basis with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.
- (f) Participation in a law enforcement gang as defined by Penal Code § 13670. Participation is grounds for termination (Penal Code § 13670).

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339.5.5 ATTENDANCE

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

339.5.6 UNAUTHORIZED ACCESS, DISCLOSURE, OR USE

- (a) Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms, or reports obtained as a result of the member's position with this department.
 - (a) Members of this department shall not disclose the name, address, or image of any victim of human trafficking except as authorized by law (Penal Code § 293).
- (b) Disclosing to any unauthorized person any active investigation information.
- (c) The use of any information, photograph, video, or other recording obtained or accessed as a result of employment or appointment to this department for personal or financial gain or without the express authorization of the Chief Probation Officer or the authorized designee.
- (d) Loaning, selling, allowing unauthorized use, giving away, or appropriating any department property for personal use, personal gain, or any other improper or unauthorized use or purpose.
- (e) Using department resources in association with any portion of an independent civil action. These resources include but are not limited to personnel, vehicles, equipment, and non-subpoenaed records.

339.5.7 EFFICIENCY

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

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339.5.8 PERFORMANCE

- (a) Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- (b) The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- (c) Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department -related business.
- (d) Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.
- (e) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- (f) Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on department premises.
 - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
 - 3. Gambling activity undertaken as part of an officer official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- (g) Improper political activity including:
 - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
 - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or, on department property except as expressly authorized by County policy, the memorandum of understanding, or the Chief Probation Officer.
- (h) Engaging in political activities during assigned working hours except as expressly authorized by County policy, the memorandum of understanding, or the Chief Probation Officer.
- (i) Any act on- or off-duty that brings discredit to this department.

339.5.9 CONDUCT

- (a) Failure of any member to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law

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enforcement agency or that may result in criminal prosecution or discipline under this policy.

- (b) Unreasonable and unwarranted force to a person encountered or a person under arrest.
- (c) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (d) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
- (e) Engaging in horseplay that reasonably could result in injury or property damage.
- (f) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department or the County.
- (g) Use of obscene, indecent, profane or derogatory language while on-duty or in uniform.
- (h) Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the member's relationship with this department.
- (i) Unauthorized possession of, loss of, or damage to department property or the property of others, or endangering it through carelessness or maliciousness.
- (j) Attempted or actual theft of department property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of department property or the property of another person.
- (k) Activity that is incompatible with a member's conditions of employment or appointment as established by law or that violates a provision of any memorandum of understanding or contract to include fraud in securing the appointment or hire.
- (l) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the Chief Probation Officer of such action.
- (m) Any other on- or off-duty conduct which any member knows or reasonably should know is unbecoming a member of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this department or its members.

339.5.10 SAFETY

- (a) Failure to observe or violating department safety standards or safe working practices.
- (b) Failure to maintain current licenses or certifications required for the assignment or position (e.g., driver license, first aid).
- (c) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (d) Unsafe firearm or other dangerous weapon handling to include loading or unloading firearms in an unsafe manner, either on- or off- duty.
- (e) Carrying, while on the premises of the work place, any firearm or other lethal weapon that is not authorized by the member's appointing authority.

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- (f) Unsafe or improper driving habits or actions in the course of employment or appointment.
- (g) Any personal action contributing to a preventable traffic collision.
- (h) Concealing or knowingly failing to report any on-the-job or work-related accident or injury as soon as practicable but within 24 hours.

339.5.11 INTOXICANTS

- (a) Reporting for work or being at work while intoxicated or when the member's ability to perform assigned duties is impaired due to the use of alcohol, medication or drugs, whether legal, prescribed or illegal.
- (b) Possession or use of alcohol at any work site or while on-duty, except as authorized in the performance of an official assignment. A member who is authorized to consume alcohol is not permitted to do so to such a degree that it may impair on-duty performance.
- (c) Unauthorized possession, use of, or attempting to bring a controlled substance, illegal drug or non-prescribed medication to any work site.

Information Technology Use

341.1 PURPOSE AND SCOPE

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

341.1.1 DEFINITIONS

Definitions related to this policy include:

Computer system - All computers (on-site and portable), electronic devices, hardware, software, and resources owned, leased, rented or licensed by the Monterey County Probation Department that are provided for official use by its members. This includes all access to, and use of, Internet Service Providers (ISP) or other service providers provided by or through the Department or department funding.

Hardware - Includes, but is not limited to, computers, computer terminals, network equipment, electronic devices, telephones, including cellular and satellite, pagers, modems or any other tangible computer device generally understood to comprise hardware.

Software - Includes, but is not limited to, all computer programs, systems and applications, including shareware. This does not include files created by the individual user.

Temporary file, permanent file or file - Any electronic document, information or data residing or located, in whole or in part, on the system including, but not limited to, spreadsheets, calendar entries, appointments, tasks, notes, letters, reports, messages, photographs or videos.

341.2 POLICY

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

341.3 PRIVACY EXPECTATION

Members forfeit any expectation of privacy with regard to emails, texts, or anything published, shared, transmitted, or maintained through file-sharing software or any internet site that is accessed, transmitted, received, or reviewed on any department computer system.

The Department reserves the right to access, audit, and disclose, for whatever reason, any message, including attachments, and any information accessed, transmitted, received, or reviewed over any technology that is issued or maintained by the Department, including the department email system, computer network, and/or any information placed into storage on any department system or device. This includes records of all keystrokes or Web-browsing history made at any department computer or over any department network. The fact that access to a database, service, or website requires a username or password will not create an expectation of privacy if it is accessed through department computers, electronic devices, or networks.

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

341.4 RESTRICTED USE

Members shall not access computers, devices, software or systems for which they have not received prior authorization or the required training. Members shall immediately report unauthorized access or use of computers, devices, software or systems by another member to their supervisors or Shift Supervisors.

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

341.4.1 SOFTWARE

Members shall not copy or duplicate any copyrighted or licensed software except for a single copy for backup purposes in accordance with the software company's copyright and license agreement.

To reduce the risk of a computer virus or malicious software, members shall not install any unlicensed or unauthorized software on any department computer. Members shall not install personal copies of any software onto any department computer.

When related to criminal investigations, software program files may be downloaded only with the approval of the information systems technology (IT) staff and with the authorization of the Chief Probation Officer or the authorized designee.

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

Introduction of software by members should only occur as part of the automated maintenance or update process of department- or County-approved or installed programs by the original manufacturer, producer or developer of the software.

Any other introduction of software requires prior authorization from IT staff and a full scan for malicious attachments.

341.4.2 HARDWARE

Access to technology resources provided by or through the Department shall be strictly limited to department-related activities. Data stored on or available through department computer systems shall only be accessed by authorized members who are engaged in an active investigation or assisting in an active investigation, or who otherwise have a legitimate law enforcement or department-related purpose to access such data. Any exceptions to this policy must be approved by a supervisor.

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341.4.3 INTERNET USE

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

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

341.4.4 OFF-DUTY USE

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

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

341.5 PROTECTION OF AGENCY SYSTEMS AND FILES

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

Members shall ensure department computers and access terminals are not viewable by persons who are not authorized users. Computers and terminals should be secured, users logged off and password protections enabled whenever the user is not present. Access passwords, logon information, and other individual security data, protocols, and procedures are confidential information and are not to be shared. Password length, format, structure, and content shall meet the prescribed standards required by the computer system or as directed by a supervisor and shall be changed at intervals as directed by IT staff or a supervisor.

It is prohibited for a member to allow an unauthorized user to access the computer system at any time or for any reason. Members shall promptly report any unauthorized access to the computer system or suspected intrusion from outside sources (including the internet) to a supervisor.

341.6 INSPECTION OR REVIEW

A supervisor or the authorized designee has the express authority to inspect or review the computer system, all temporary or permanent files, related electronic systems or devices, and any contents thereof, whether such inspection or review is in the ordinary course of his/her supervisory duties or based on cause.

Reasons for inspection or review may include, but are not limited to, computer system malfunctions, problems or general computer system failure, a lawsuit against the Department

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involving one of its members or a member's duties, an alleged or suspected violation of any department policy, a request for disclosure of data, or a need to perform or provide a service.

The IT staff may extract, download or otherwise obtain any and all temporary or permanent files residing or located in or on the department computer system when requested by a supervisor or during the course of regular duties that require such information.

Critical Incident Reports

342.1 POLICY

Incident reports should be filled out by staff effecting arrests on duty, or involved in incidents considered unusual, a possible subject to litigation, or a focus of the media. Examples of incidents that would require an incident report are:

- A citizen stating he/she would be pursuing legal action against the Department.
- Searches resulting in arrest, seized property, injury, or damage (Note: all searches will also be documented in the PSM's search log)
- Forced entry
- Any use of force
- When an officer points a firearm at any person
- Exposure to communicable disease
- Traffic accident
- Rendering first aid to an injured civilian
- Damage to personal property

Critical Incident Reports will be filed with the immediate Supervisor by the end of the next shift following the incident.

The Supervisor will make appropriate review and comments and will forward the IR to the Probation Director within 24 hours of the receipt of the IR.

News Media Relations

345.1 PURPOSE AND SCOPE

This policy provides guidelines for media releases and media access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities.

345.2 RESPONSIBILITIES

The ultimate authority and responsibility for the release of information to the media shall remain with the Chief Probation Officer, however, in situations not warranting immediate notice to the Chief Probation Officer and in situations where the Chief Probation Officer has given prior approval, Division Directors, Shift Supervisors and designated Public Information Officer(s) may prepare and release information to the media in accordance with this policy and the applicable law.

345.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the designated department media representative, or if unavailable, to the first available supervisor. Prior to releasing any information to the media, employees shall consider the following:

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

345.3 MEDIA ACCESS

Authorized members of the media shall be provided access to scenes of disasters, criminal investigations, emergencies and other law enforcement activities subject to the following conditions (Penal Code § 409.5(d)):

- (a) The media representative shall produce valid press credentials that shall be prominently displayed at all times while in areas otherwise closed to the public.
- (b) Media representatives may be prevented from interfering with emergency operations and criminal investigations.
 - 1. Reasonable effort should be made to provide a safe staging area for the media that is near the incident and that will not interfere with emergency or criminal investigation operations. All information released to the media should

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be coordinated through the department Public Information Officer or other designated spokesperson.

2. Whenever the presence of media or other aircraft pose a threat to public or officer safety or significantly hampers incident operations, the field supervisor should consider requesting a Temporary Flight Restriction (TFR). All requests for a TFR should be routed through the Probation Services Manager. The TFR request should include specific information regarding the perimeter and altitude necessary for the incident and should be requested through the appropriate control tower. If the control tower is not known, the Federal Aviation Administration should be contacted (14 CFR § 91.137).
- (c) No member of this department who is under investigation shall be subjected to media visits or interviews without the consent of the involved employee (Government Code § 3303(e)).
 - (d) Media interviews with individuals who are in custody should not be permitted without the approval of the Chief Probation Officer and the express consent of the person in custody.

345.4 RESTRICTED INFORMATION

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When in doubt, authorized and available legal counsel should be obtained. Examples of such restricted information include, but are not limited to:

- (a) Confidential peace officer personnel information (See Personnel Files Policy)
 1. The identities of officers involved in shootings or other major incidents may only be released to the media pursuant to consent of the involved officer or upon a formal request filed and processed in accordance with the Public Records Act.
- (b) Copies of traffic collision reports (except to the involved parties and their authorized representatives) (Vehicle Code § 20012)
- (c) Criminal history information
- (d) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation
- (e) Information pertaining to pending litigation involving this department
- (f) Information obtained in confidence
- (g) Any information that is otherwise privileged or restricted under state or federal law. (Government Code § 6254(k)).

Subpoenas and Court Appearances

347.1 PURPOSE AND SCOPE

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

347.2 POLICY

Monterey County Probation Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

347.2.1 VALID SUBPOENAS

No subpoena shall be accepted for an employee of this department unless it has been properly served and verified to have originated from a recognized legal authority.

347.3 FAILURE TO APPEAR

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

347.4 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

347.5 COURTROOM PROTOCOL

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the department uniform or business attire.
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

347.5.1 TESTIMONY

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.

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347.6 OVERTIME APPEARANCES

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current memorandum of understanding or collective bargaining agreement.

Mutual Aid and Outside Agency Assistance

351.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to officers in the request of or answering the request for assistance involving another law enforcement agency.

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

351.1.1 ASSISTING OUTSIDE AGENCIES

Generally, calls for assistance from other agencies are routed to the Probation Services Manager's office for approval. When an authorized employee of an outside agency requests the assistance of this department in taking a person into custody, available officers shall respond and assist in making a lawful arrest. If an officer receives a request in the field for assistance, that officer shall notify a supervisor.

351.1.2 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

If assistance is needed from another agency, the employee requesting assistance shall first notify a supervisor of his/her intentions.

Major Incident Notification

357.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to members of this department in determining when, how and to whom notification of major incidents should be made.

357.2 POLICY

The Monterey County Probation Department recognizes that certain incidents should be brought to the attention of supervisors or other specified personnel of this department to facilitate the coordination of activities and ensure that inquiries from the media and the public may be properly addressed.

357.3 MINIMUM CRITERIA FOR NOTIFICATION

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

- Homicides
- Traffic accidents with fatalities
- Officer-involved shooting - on or off duty (see Officer-Involved Shooting Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Arrest of a department employee
- In-custody deaths

357.4 PROBATION SERVICES MANAGER RESPONSIBILITY

The Shift Supervisor is responsible for making the appropriate notifications. The Shift Supervisor shall make reasonable attempts to obtain as much information on the incident as possible before notification. The Shift Supervisor shall attempt to make the notifications as soon as practicable. Notification should be made by calling the home telephone number first and then by any other available contact numbers.

357.4.1 STAFF NOTIFICATION

In the event an incident occurs described in [Policy Manual § 358.2](#), the Chief Probation Officer shall be notified along with the affected Division Director.

Prison Rape Elimination

358.1 PURPOSE AND SCOPE

The purpose of the Prison Rape Elimination Act is to:

- Increase the accountability of custodial or correctional officers who fail to detect, prevent, reduce and punish prison rape
- Establish a zero tolerance standard for the incidence of prison rape in corrections facilities
- Make the prevention of prison rape a top priority in each corrections system
- Develop and implement national standards for the detection, prevention, reduction and punishment of prison rape
- Increase the available data and information on the incidence of prison rape, consequently improving the management and administration of corrections facilities
- Protect the Eighth Amendment Rights of Federal, State and local detainees

358.1.1 DEFINITIONS

As defined by PREA (Section 10) and for the purposes of this policy, the following definitions apply:

Intimacy - Inappropriate social or physical contact of a personal, romantic, sexual or unduly familiar nature and may include kissing, touching parts of the body not defined under sexual contact.

Invasion of Privacy - Intentionally observing, attempting to observe, or interfering in a probationers activities, which are of a personal nature without a sound correctional purpose. Any act by any paid, contracted or volunteer personnel conducting official departmental duties and responsibilities will not be regarded as invasion of privacy.

Mandated Reporter - Individuals deemed Mandated Reporters include: Any employee of the police department, county sheriff's department, county probation department, county welfare department, or a custodial officer as defined in penal Code Section 831.5.

Minor - An individual who resides in the Monterey County Juvenile Hall or the Monterey County Youth Center.

Rape - The penetration, however slight, of the oral, vaginal, or anal opening for the purpose of sexual arousal, gratification, or abuse under one or more of the following circumstances:

- Where the victim is incapable through physical or mental incapacity, whether temporary or permanent
- Where the victim resists but resistance is overcome by force or violence

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- Where the victim is prevented from resistance by threats of immediate and bodily harm, accompanied by an apparent power of execution, or is unable to resist because of any intoxicating, narcotic, or anesthetic substance
- Where the victim submits under the belief that failure to submit will cause physical harm to some person in the future, damage to property, engaging in other conduct constituting a crime, accuse any person of a crime or cause criminal charges to be instituted against the victim, expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule
- Where the victim is at the time unconscious of the nature of the act

Sexual Abuse - Includes but is not limited to subjecting another person to sexual contact by persuasion, inducement, enticement or forcible compulsion; subjecting to sexual contact of another person who is incapable of giving consent by reason of his/her custodial status; subjecting another person to sexual contact who is incapable by reason of being physically helpless, physically restrained, or mentally incapacitated; and raping, molesting, prostitution or otherwise sexually exploiting another person. Sexual abuse is an inappropriate abuse of power and is prohibited by department policy and applicable state statutes.

Sexual Assault - Sexual physical contact without the other person's expressed or implied consent, or the other person is unconscious or otherwise physically incapable of resisting, or verbal or written sexual proposals, threats, or harassment of another person.

Sexual Contact - Includes intentional sexual touching or physical contact in a sexual manner either directly or through clothing of the genitalia, anus, groin, breasts, inner thighs, buttocks, with or without consent of the persons; or any touching or inappropriate viewing with intent to arouse, humiliate, harass, degrade or gratify the sexual desire of any person.

Sexual Misconduct - Any behavior or act of a sexual nature directed toward a person under the care, custody or supervision of the department and/ or collateral contact by the person in authority including, but not limited to: family members, employers, friends, and other close associates. Sexual Misconduct includes but is not limited to acts or attempts to commit acts of:

- Sexual assault
- Sexual abuse
- Sexual harassment
- Sexual contact of the genitals, breasts, or other intimate part of the body
- Conduct of a sexual nature by implication
- Obscenity or unreasonable invasion of privacy
- Conversations or correspondence which suggests a romantic or sexual relationship between parties in the groups referenced above

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Undue Familiarity - Any conversation, contact or business dealing between an employee and an offender under the supervision of the Department, or any collateral contact with an offender or a victim which is unnecessary, not part of the employees duties and related to a personal relationship of purpose rather than a legitimate correctional purpose. Undue familiarity includes, but not limited to, acts of horseplay, betting, giving food, sharing in inappropriate personal conversation, exchanging correspondence, sexual misconduct, or in any other manner developing a relationship with an offender which is anything other than a professional relationship.

Victim - For the purpose of this policy, a person who is sexually assaulted.

Zero Tolerance - The Monterey County Probation Department will not tolerate any form of sexual abuse and sexual misconduct and enforces this policy by ensuring all of the divisions within the department comply with PREA standards. The Monterey County Probation Department designates a PREA coordinator to develop, implement and oversee department efforts to comply with PREA standards, including providing PREA training to all Monterey County Probation employees, as well as to volunteers, interns and independent contractors.

358.2 POLICY

It is the policy of the Monterey County Probation Department, in accordance with public law 108-79, the Prison Rape Elimination Act of 2003 (PREA), and the Sexual Abuse in Detention Elimination Act, Chapter 303 Statutes of 2005, to ensure accountability, prevention, detection, response and monitoring of alleged sexual assault. This includes but is not limited to, the assurance that timely intervention takes place for any minor, defendant or probationer who may be the victim of alleged sexual assault. This policy applies to paid and independent contract employees as well as to volunteers and interns.

The department is committed to providing a safe, humane, secure environment, free from sexual misconduct. This will be accomplished by maintaining a program to address education, prevention, detection, response, investigation, and tracking of sexual misconduct and to address successful community re-entry of the victim.

The department will maintain a zero tolerance for any sexual misconduct. All sexual misconduct is strictly prohibited and may be referred to the District Attorney for filing of criminal charges. This policy applies to all employees including volunteers, interns, independent contractors and all probationers under the supervision of Monterey County Probation, in or out of custody of the Juvenile Hall or the Youth Center.

The legal concept of "consent" does not exist between departmental employees and offenders. Any sexual behavior between them constitutes sexual misconduct and will subject the employee to disciplinary action and/ or prosecution under the law.

Retaliatory measures against employees or probationers who report incidents of sexual abuse will not be tolerated and will result in disciplinary action and/or criminal prosecution. Retaliatory measures include but are not limited to, coercion, threats of punishment, or any other activities intended to discourage or prevent an employee or resident from reporting the sexual abuse.

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358.3 MEMBER RESPONSIBILITIES

All members of the Monterey County Probation Department are required to report any and all incidents of alleged sexual misconduct immediately to his or her supervisor or available manager. Any member, upon receiving a written or oral complaint, or any notice whatsoever of conduct prohibited by this policy, or of retaliation for reporting such conduct will comply with the following protocol:

- (a) Members will immediately report any alleged sexual misconduct to his or her immediate supervisor both verbally and by written notice . If the immediate supervisor is not available, the alleged act will immediately be reported to the next available supervisor or manager utilizing the departmental Chain of Command. An investigation will begin as soon as the complaint is received.
- (b) Pursuant to Penal Code Section 11657 (a) (15), mandated reporters include any employee of a probation department as stated in Penal Code Section 11165.7 (a) (15). A mandated reporter, who in his or her professional capacity, or within the scope of his or her employment, has knowledge of, or observes a person under the age of 18 years whom he or she knows or reasonably suspects has been the victim of child abuse or neglect must report the suspected incident. The reporter must contact a designated agency, which includes Child Protective Services, any police or sheriff department immediately or as soon as practically possible by telephone and will prepare and send a written report within 36 hours of receiving the information concerning the incident. No supervisor or administrator may impede or inhibit an individual's reporting duties or subject the mandated reporter to any sanction for making the report (PC 1166 (i) (i)).
- (c) Failure to make a report of an allegation or complaint of sexual misconduct may be subject to disciplinary action.

358.4 EDUCATION, TRAINING AND PREVENTION

All employees including volunteers, interns and independent contractors will receive initial eight (8) hour NCTI Preventing Sexual Misconduct PREA training. Periodic training refreshers will be provided.

All employees, including volunteers and contractors will be required to sign an acknowledgement form indicating that they have read and understood the PREA Policy and Procedure.

358.4.1 INFORMATION FOR PROBATIONERS AND DETAINEES

Incarcerated youth shall receive information explaining, in age appropriate fashion, the agency's zero tolerance policy regarding sexual abuse and sexual harassment and how to report incidents or suspicions of sexual abuse or sexual harassment.

Incarcerated youth shall receive resident education in formats accessible to all residents, including those who are limited English proficient, deaf, visually impaired, or otherwise disabled, as well as those residents who have limited reading skills.

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The agency shall maintain documentation of resident participation in these education sessions.

In addition to providing such education, the agency shall ensure that the key information is continuously and readily available or visible to residents through posters, resident handbooks or other written formats.

Approved PREA posters will be placed in designated locations throughout the department.

Child and Dependent Adult Safety

379.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that children and dependent adults are not left without appropriate care in the event their caregiver or guardian is arrested or otherwise prevented from providing care due to actions taken by members of this department (Penal Code § 833.2(a)).

This policy does not address the actions to be taken during the course of a child abuse or dependent adult investigation. These are covered in the Child Abuse and Senior and Disability Victimization policies.

379.2 POLICY

It is the policy of this department to mitigate, to the extent reasonably possible, the stressful experience individuals may have when their parent or caregiver is arrested. The Monterey County Probation Department will endeavor to create a strong, cooperative relationship with local, state and community-based social services to ensure an effective, collaborative response that addresses the needs of those affected, including call-out availability and follow-up responsibilities.

379.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, officers should make reasonable attempts to determine if the arrestee is responsible for children or dependent adults. In some cases this may be obvious, such as when children or dependent adults are present. However, officers should inquire if the arrestee has caregiver responsibilities for any children or dependent adults who are without appropriate supervision. The following steps should be taken (Penal Code § 13517.7(b)(1)):

- (a) Inquire about and confirm the location of any children or dependent adults.
- (b) Look for evidence of children and dependent adults. Officers should be mindful that some arrestees may conceal the fact that they have a dependent for fear the individual may be taken from them.
- (c) Consider inquiring of witnesses, neighbors, friends and relatives of the arrestee as to whether the person is responsible for a child or dependent adult.

Whenever reasonably possible, officers should take reasonable steps to accomplish the arrest of a parent, guardian or caregiver out of the presence of his/her child or dependent adult. Removing children or dependent adults from the scene in advance of the arrest will generally ensure the best outcome for the individual.

Whenever it is safe to do so, officers should allow the parent or caregiver to assure children or dependent adults that they will be provided care. If this is not safe or if the demeanor of the parent or caregiver suggests this conversation would be non-productive, the officer at the scene should explain the reason for the arrest in age-appropriate language and offer reassurance to the child or dependent adult that he/she will receive appropriate care.

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379.3.1 AFTER AN ARREST

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

Officers should allow the arrestee reasonable time to arrange for care of children and dependent adults. Temporary placement with family or friends may be appropriate. However, any decision should give priority to a care solution that is in the best interest of the child or dependent adult. In such cases the following guidelines should be followed:

- (a) Allow the person reasonable time to arrange for the care of children and dependent adults with a responsible party, as appropriate.
 - 1. Officers should consider allowing the person to use his/her cell phone to facilitate arrangements through access to contact phone numbers, and to lessen the likelihood of call screening by the recipients due to calls from unknown sources.
- (b) Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), officers should respect the parent or caregiver's judgment regarding arrangements for care. It is generally best if the child or dependent adult remains with relatives or family friends that he/she knows and trusts because familiarity with surroundings and consideration for comfort, emotional state and safety are important.
 - 1. Except when a court order exists limiting contact, the officer should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (c) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (d) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.
- (e) Notify the field supervisor or Shift Supervisor of the disposition of children or dependent adults.

If children or dependent adults are at school or another known location outside the household at the time of arrest, the arresting officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

379.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee shall be allowed to make additional telephone calls to relatives or other responsible individuals as is reasonably necessary to arrange for the care of any child or dependent adult. These telephone calls should be given as soon as practicable and are in addition to any other telephone calls allowed by law (Penal Code § 851.5(c)).

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If an arrestee is unable to resolve the care of any child or dependent adult through this process, a supervisor should be contacted to determine the appropriate steps to arrange for care. These steps may include additional telephone calls or contacting a local, county or state services agency.

379.4 DEPENDENT WELFARE SERVICES

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling officer should contact the appropriate welfare service or other department-approved social service to determine whether protective custody is appropriate (Welfare and Institutions Code § 305).

Only when other reasonable options are exhausted should a child or dependent adult be transported to the probation facility, transported in a marked patrol car, or taken into formal protective custody.

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

379.5 TRAINING

The Training PSM is responsible to ensure that all personnel of this department who may be involved in arrests affecting children or dependent adults receive approved POST-approved training on effective safety measures when a parent, guardian or caregiver is arrested (Penal Code § 13517.7).

Service Animals

381.1 PURPOSE AND SCOPE

The purpose of this policy is to provide the guidelines necessary to ensure the rights of individuals who use service animals to assist with disabilities are protected in accordance with Title II of the Americans with Disabilities Act of 1990 (ADA).

381.1.1 DEFINITIONS

Definitions related to this policy include:

Service animal - A dog that is trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual's disability (28 CFR 35.104; Health and Safety Code § 113903).

Service animal also includes a miniature horse if the horse is trained to do work or perform tasks for people with disabilities, provided the horse is housebroken, is under the handler's control, the facility can accommodate the horse's type, size and weight, and the horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility (28 CFR 35.136(i)).

381.2 POLICY

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

381.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

Some service animals may be readily identifiable. However, many do not have a distinctive symbol, harness or collar.

Service animals may be used in a number of ways to provide assistance, including:

- Guiding people who are blind or have low vision.
- Alerting people who are deaf or hard of hearing.
- Retrieving or picking up items, opening doors or flipping switches for people who have limited use of their hands, arms or legs.
- Pulling wheelchairs.
- Providing physical support and assisting with stability and balance.
- Doing work or performing tasks for persons with traumatic brain injury, intellectual disabilities or psychiatric disabilities, such as reminding a person with depression to take medication.

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- Alerting a person with anxiety to the onset of panic attacks, providing tactile stimulation to calm a person with post-traumatic stress disorder, assisting people with schizophrenia to distinguish between hallucinations and reality, and helping people with traumatic brain injury to locate misplaced items or follow daily routines.

381.4 MEMBER RESPONSIBILITIES

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

381.4.1 INQUIRY

If it is apparent or if a member is aware that an animal is a service animal, the individual generally should not be asked any questions as to the status of the animal. If it is unclear whether an animal meets the definition of a service animal, the member should ask the individual only the following questions (28 CFR 35.136(f)):

- Is the animal required because of a disability?
- What task or service has the service animal been trained to perform?

If the individual explains that the animal is required because of a disability and has been trained to work or perform at least one task, the animal meets the definition of a service animal and no further questions as to the animal's status should be asked. The individual should not be questioned about his/her disability nor should the person be asked to provide any license, certification or identification card for the service animal.

381.4.2 CONTACT

Service animals are not pets. Department members should not interfere with the important work performed by a service animal by talking to, petting or otherwise initiating contact with a service animal.

381.4.3 REMOVAL

If a service animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, an officer may direct the handler to remove the animal from the premises. Barking alone is not a threat nor does a direct threat exist if the person takes prompt, effective action to control the service animal (28 CFR 35.136(b)).

Each incident must be considered individually and past incidents alone are not cause for excluding a service animal. Removal of a service animal may not be used as a reason to refuse service to an individual with disabilities. Members of this department are expected to provide all services as are reasonably available to an individual with a disability, with or without a service animal.

Chapter 4 - Field Operations

Racial- or Bias-Based Profiling

402.1 PURPOSE AND SCOPE

This policy provides guidance to department members and establishes appropriate controls to ensure that members of the Monterey County Probation Department do not engage in racial- or bias-based profiling or violate any related laws while serving the community.

402.2 POLICY

The Monterey County Probation Department is committed to providing law enforcement services to the community with due regard for the racial, cultural or other differences of those served. It is the policy of this department to provide law enforcement services and to enforce the law equally, fairly and without discrimination toward any individual or group.

Race, ethnicity or nationality, religion, sex, sexual orientation, economic status, age, cultural group, disability or affiliation with any other similar identifiable group shall not be used as the basis for providing differing levels of law enforcement service or the enforcement of the law.

402.3 RACIAL- OR BIAS-BASED PROFILING PROHIBITED

Racial- or bias-based profiling is strictly prohibited. However, nothing in this policy is intended to prohibit an officer from considering factors such as race or ethnicity in combination with other legitimate factors to establish reasonable suspicion or probable cause (e.g., suspect description is limited to a specific race or group).

Hazardous Material Response

412.1 PURPOSE AND SCOPE

Hazardous materials present a potential harm to employees resulting from their exposure. To comply with Title 8, California Code of Regulations, § 5194, the following is to be the policy of this department.

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 during a probation search, at the scene of a traffic accident, chemical spill or fire. When employees come into contact with a suspected hazardous material, certain steps should be taken to protect themselves and citizens.

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

- (a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from the person transporting).
- (b) Notify the Fire Department.
- (c) Provide first-aid for injured parties if it can be done safely and without contamination.
- (d) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.
- (e) Notify the Monterey County Environmental Health Department. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).
- (f) Notify the Department of Toxic Substances Control. This is mandatory when an officer 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

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PSM. 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 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.

Response to Bomb Calls

416.1 PURPOSE AND SCOPE

These guidelines have been prepared to assist officers 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 handling an incident involving a suspected explosive device, the following guidelines should be followed:

- (a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging. The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.
- (b) A minimum perimeter of 300 feet should be established around the device. An access point should be provided for support personnel.
- (c) As much information as is available should be promptly relayed to the Shift Supervisor including:
 1. The stated threat.
 2. Exact comments.
 3. Time of discovery.
 4. Exact location of the device.
 5. Full description (e.g., size, shape, markings, construction) of the device.
- (d) The device should not be touched or moved except by qualified bomb squad personnel.
- (e) All equipment within 300 feet of the suspected device capable of producing radio frequency energy should be turned off. This includes two-way radios, cell phones and other personal communication devices.
- (f) Consideration should be given to evacuating any buildings near the device.
- (g) A search of the area should be conducted for secondary devices or other objects that are either hazardous or foreign to the area and a perimeter should be established around any additional suspicious device found.

Explosive or military ordnance of any type should be handled only by the bomb squad or military ordnance disposal team.

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416.3 EXPLOSION/BOMBING INCIDENTS

When an explosion has occurred, there are multitudes of considerations which may confront the responding officers. 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 officers 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) Bomb Squad
- (c) Additional officers
- (d) Field supervisor
- (e) Shift Supervisor

416.3.2 CROWD CONTROL

Only authorized personnel with a legitimate need shall be permitted access to the scene. Spectators and other unauthorized individuals shall be excluded to a safe distance as is reasonably practicable given the available resources and personnel.

416.3.3 SCENE OF INCIDENT

As in any other crime scene, steps should immediately be taken to preserve the scene. The scene could extend over a long distance. Evidence may be imbedded in nearby structures or hanging in trees and bushes.

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416.4 BOMB THREATS RECEIVED AT PROBATION DEPARTMENT FACILITY

This procedure shall be followed should a bomb threat call be received at a Probation Department 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 the Probation Department:

- 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.

416.4.2 RESPONSIBILITIES

The employee handling the call shall ensure that the Shift Supervisor is immediately advised and fully informed of the details. The Shift Supervisor will then direct and assign officers as required for coordinating a general building search or evacuation as he/she deems appropriate.

Immigration Violations

428.1 PURPOSE AND SCOPE

The immigration status of individuals alone is generally not a matter for department 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 POLICY

It is the policy of the Monterey County Probation Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

428.3 PROCEDURES FOR IMMIGRATION COMPLAINTS

Persons wishing to report immigration violations should be referred to the local office of the U.S. Immigration and Customs Enforcement (ICE). The Employer Sanction Unit of ICE has primary jurisdiction for enforcement of Title 8, United States Code.

428.3.1 BASIS FOR CONTACT

Unless immigration status is relevant to another criminal offense or investigation (e.g., harboring, smuggling, terrorism), the fact that an individual is suspected of being an undocumented alien shall not be the sole basis for contact, detention, or arrest.

428.4 ICE REQUEST FOR ASSISTANCE

If a specific request is made by ICE or any other federal agency, this department will provide available support services or peacekeeping efforts, during the federal operation, if approved by the Chief Probation Officer or his/her designee.

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

428.4.1 ICE REQUEST FOR CLIENT INFORMATION

ICE requests for any juvenile client information must have prior approval of the presiding judge of the juvenile court (Welfare and Institutions Code § 827, 831).

All ICE requests for specific adult client information shall be referred to the appropriate PSM and may only be approved if the client is the subject of a criminal judicial warrant.

Foot Pursuits

458.1 PURPOSE AND SCOPE

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

458.2 DECISION TO PURSUE

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

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

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

Deciding to initiate or continue a foot pursuit is a decision that an officer must make quickly and under unpredictable and dynamic circumstances. It is recognized that foot pursuits may place department members and the public at significant risk. Therefore, no officer 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 officer should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

- (a) Containment of the area.
- (b) Saturation of the area with law enforcement personnel, including assistance from other agencies.
- (c) A canine search.
- (d) Thermal imaging or other sensing technology.
- (e) Air support.
- (f) Apprehension at another time when the identity of the suspect is known or there is information available that would likely allow for later apprehension, and the need to immediately apprehend the suspect does not reasonably appear to outweigh the risk of continuing the foot pursuit.

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Foot Pursuits

458.3 GENERAL GUIDELINES

When reasonably practicable, officers should consider alternatives to engaging in or continuing a foot pursuit when:

- (a) Directed by a supervisor to terminate the foot pursuit; such an order shall be considered mandatory
- (b) The officer is acting alone.
- (c) Two or more officers become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single officer keep the suspect in sight from a safe distance and coordinate the containment effort.
- (d) The officer is unsure of his/her location and direction of travel.
- (e) The officer is pursuing multiple suspects and it is not reasonable to believe that the officer would be able to control the suspect should a confrontation occur.
- (f) The physical condition of the officer renders him/her incapable of controlling the suspect if apprehended.
- (g) The officer loses radio contact with the dispatcher or with assisting or backup officers.
- (h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient officers to provide backup and containment. The primary officer should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.
- (i) The officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to officers or the public.
- (j) The officer reasonably believes that the danger to the pursuing officers or public outweighs the objective of immediate apprehension.
- (k) The officer loses possession of his/her firearm or other essential equipment.
- (l) The officer or a third party is injured during the pursuit, requiring immediate assistance, and there are no other emergency personnel available to render assistance.
- (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 members or the public if the suspect is not immediately apprehended.
- (o) The officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

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458.4 RESPONSIBILITIES IN FOOT PURSUITS

458.4.1 INITIATING OFFICER RESPONSIBILITIES

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

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

- (a) Call sign identifier
- (b) Location and direction of travel
- (c) Reason for the foot pursuit, such as the crime classification
- (d) Number of suspects and description, to include name if known
- (e) Whether the suspect is known or believed to be armed with a dangerous weapon

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

Absent extenuating circumstances, any officer unable to promptly and effectively broadcast this information should terminate the foot pursuit. If the foot pursuit is discontinued for any reason, immediate efforts for containment should be established and alternatives considered based upon the circumstances and available resources.

When a foot pursuit terminates, the officer will notify the dispatcher of his/her location and the status of the pursuit termination (e.g., suspect in custody, lost sight of suspect), and will direct further actions as reasonably appear necessary, to include requesting medical aid as needed for officers, suspects or members of the public.

458.4.2 ASSISTING OFFICER RESPONSIBILITIES

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

458.5 REPORTING REQUIREMENTS

The initiating officer shall complete appropriate crime/arrest reports documenting, at minimum:

- (a) Date and time of the foot pursuit.
- (b) Initial reason and circumstances surrounding the foot pursuit.
- (c) Course and approximate distance of the foot pursuit.
- (d) Alleged offenses.

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- (e) Involved vehicles and officers.
- (f) Whether a suspect was apprehended as well as the means and methods used.
 - 1. Any use of force shall be reported and documented in compliance with the Use of Force Policy.
- (g) Arrestee information, if applicable.
- (h) Any injuries and/or medical treatment.
- (i) Any property or equipment damage.
- (j) Name of the supervisor at the scene or who handled the incident.

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

The supervisor reviewing the report will make a preliminary determination that the pursuit appears to be in compliance with this policy or that additional review and/or follow-up is warranted.

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

458.6 POLICY

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

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

Chapter 5 - Equipment

Department Owned and Personal Property

500.1 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.

500.2 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.

500.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be in writing and submitted to the employee's immediate supervisor.

The supervisor shall direct a memo to the appropriate Division Director, which shall include the results of his/her investigation and whether the employee followed proper procedures. The supervisor's report shall address whether reasonable care was taken to prevent the loss or damage.

Upon review by staff and a finding that no misconduct or negligence was involved, repair or replacement may be recommended by the Chief Probation Officer who will then forward the claim to the Finance Department.

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The Department will not replace or repair luxurious or overly expensive items (jewelry, exotic equipment, etc.) that are not reasonably required as a part of work.

500.3.1 REPORTING REQUIREMENT

A verbal report shall be made to the employee's immediate supervisor as soon as circumstances permit.

A written report shall be submitted before the employee goes off duty or within the time frame directed by the supervisor to whom the verbal report is made.

500.4 LOSS OR DAMAGE OF PROPERTY OF ANOTHER

Officers 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.

500.4.1 DAMAGE BY PERSON OF ANOTHER AGENCY

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

Personal Communication Devices

502.1 PURPOSE AND SCOPE

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

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

502.1.1 PRIVACY POLICY

Any employee utilizing any computer, internet service, phone service or other wireless service provided by or funded by the Department expressly acknowledges and agrees that the use of such service, whether for business or personal use, shall remove any expectation of privacy the employee, sender and recipient of any communication utilizing such service might otherwise have, including as to the content of any such communication. The Department also expressly reserves the right to access and audit any and all communications (including content) sent, received and/or stored using such service.

502.2 POLICY

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

The inappropriate use of a PCD while on-duty may impair officer safety. Additionally, members are advised and cautioned that the use of a personally owned PCD either on-duty or after duty hours for business-related purposes may subject the member and the member's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Members who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel.

502.2.1 INDIVIDUALLY OWNED PCD

Employees may carry their own PCD while on duty subject to the following conditions:

- (a) Carrying an individually-owned personal communication device is optional.
- (b) The device shall be purchased, used and maintained at the employee's expense.

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502.2.2 USE OF PERSONAL COMMUNICATION DEVICES

PCDs, whether provided by the Department or personally-owned, should only be used by on-duty employees for legitimate department business except as provided for below. Employees may use a PCD to communicate with other personnel in those situations where the use of the radio is either impractical or not feasible. PCDs however, should not be used to replace regular radio communications.

- (a) PCD's may not be used to conduct personal business while on duty except when brief personal communications may be warranted by the circumstances (e.g., inform family of extended hours). While employee's may use personally owned PCDs for personal business during authorized breaks, such usage should be limited as much as practical to areas where the communication will not be seen or heard by members of the public.
- (b) Extended or frequent use of department-issued PCDs or personally owned PCDs while on duty for personal use is prohibited and may be subject to discipline. Employees may be responsible for reimbursing the Department for any charges incurred as a result of personal use.

502.2.3 USE WHILE DRIVING

The use of a PCD while driving can cause unnecessary distractions and presents a negative image to the public. Officers operating Department vehicles should restrict the use of these devices while driving to matters of an urgent nature and should, where practical, stop the vehicle at an appropriate location to complete their call.

Except in the case of an emergency employees who are operating non-emergency vehicles shall not use cellular phones or other personal communication devices while driving unless the telephone is specifically designed and configured to allow hands-free listening and talking (Vehicle Code 23123 (a)). Such use should be restricted to business related calls or calls of an urgent nature.

Vehicle Maintenance

504.1 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.

504.1.1 PREVENTATIVE MAINTENANCE

Department vehicles are to be serviced for preventative maintenance as scheduled by Fleet Management.

It is the PSM's responsibility to ensure that Department vehicles assigned to his/her unit are up to date with the preventative maintenance schedule.

504.2 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 PSM for further action.

504.3 VEHICLE REFUELING

Absent emergency conditions or supervisor approval, officers driving department vehicles shall not place a vehicle in service that has less than one-quarter tank of fuel. Vehicles shall only be refueled at the authorized location.

504.4 WASHING OF VEHICLES

All units shall be kept clean at all times and weather conditions permitting, shall be washed as necessary to enhance their appearance.

Employees using a vehicle shall remove any trash or debris at the end of their shift. Confidential material should be placed in a designated receptacle provided for the shredding of this matter.

Vehicle Use - County and Private

505.1 POLICY

The Probation Department follows the Monterey County Vehicle Use Policy as adopted by the Board of Supervisors on 5/21/91 in Resolution No. 91-236 (revised 2/5/02). This policy can be obtained at the Department Personnel Office.

505.2 GENERAL INFORMATION

- (a) The use of county vehicles shall be related to official county business and work activities.
- (b) County and privately-owned vehicles being operated for county business shall be operated in accordance with all safety and legal requirements of the county, state and/or any other jurisdiction in which they are operated.
- (c) Use of a county vehicle for transportation to home or a restaurant for meals is prohibited, unless it is done en route while on field duty or attending a meeting while on official county business.
- (d) Overnight use of a county vehicle must have prior approval of the Unit Supervisor.
- (e) Transportation of any person(s) not connected with county business is prohibited in county vehicles unless otherwise expressly permitted by applicable law, or unless prior specific authorization is given by the department head or his/her designee.

505.3 USE OF COUNTY VEHICLES

All county employees, when using county vehicles, shall:

- (a) Possess a valid California driver's license or license valid in California for the type of vehicle to be operated
- (b) Operate county vehicles in a safe, responsible and courteous manner consistent with the intended use of the vehicle

505.4 USE OF PRIVATE VEHICLES

The use of privately owned vehicles for official county business shall be allowed and encouraged when such use is determined to be in the best interest of the county.

505.4.1 PREREQUISITES

Prerequisites for Authorization include:

- (a) Prior authorization of his/her department head or designee
- (b) A current driver's license valid in California

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- (c) Public liability/property damage insurance with policy limits not less than those set forth in California Vehicle Code Sections 16450 et. seq.

505.4.2 REIMBURSEMENT CLAIMS

Employees or volunteers authorized to use their private vehicles for county business can claim reimbursement to the extent authorized by either the applicable provisions of the County's Personnel, Policies, & Practices Resolution or the applicable provisions of any memorandum of understanding.

Chapter 6 - Probation Records

Records Maintenance and Release

610.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

610.2 PUBLIC REQUESTS FOR RECORDS

The California Public Records Act (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. Public requests for records of this department shall be processed as follows:

610.2.1 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 processing of requests is subject to the following limitations:

- (a) The employee processing the request shall determine if the requested record is available and, if so, whether the record is exempt from disclosure. Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Chief Probation Officer or the authorized designee. If an extension is authorized, the Department shall provide written notice of the extension to the requesting party (Government Code § 6253(c)).
- (b) In accordance with the Public Records Act, the Department is not required to create records that do not otherwise exist in order to accommodate a request under the Act.

Requests by elected officials for records that are not open to public inspection should be referred to the Assistant Chief Probation Officer for a determination as to whether the records will be released.

610.3 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:

610.3.1 ADULT PROBATION FILES

Adult Probation Files (Records) constitute a part of the records of the Court and shall at all times be open to the inspection of the Court or any person appointed by the Court for that purpose, as well as all magistrates and chiefs of police, unless, otherwise ordered by the Court (Penal Code § 1203.10).

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610.3.2 ADULT PROBATION REPORTS

Adult Probation reports filed by the Probation Officer with the Court may be inspected or copied as follows:

- (a) By any person, from the date judgment is pronounced or probation granted, up to and including 60 days from the date judgment is pronounced or probation is granted, whichever is earlier
- (b) By any person, at any time, by order of the Court, upon filing a petition by such person
- (c) By the general public, if the Court upon its own motion orders that a report shall be open or that the contents of the report shall be disclosed
- (d) By any person authorized or required by law to inspect or receive copies of the report

Any copies requested by the general public under the above provisions shall be obtained from the Court Clerk and shall not be provided by the Probation Officer.

610.3.3 JUVENILE PROBATION RECORDS

Juvenile Probation records, including all petitions filed, reports of the Probation Officer, and all other documents contained in the file that are submitted to the Court may be inspected by the following:

- (a) Court personnel
- (b) The minor who is subject of the proceedings
- (c) The minor's parents or guardian
- (d) The attorneys for those parties
- (e) Any other person as may be designated by the W&I Code
- (f) District Attorney in conducting a criminal investigation
- (g) Child Protective Services in conducting dependency proceedings

All other requests to inspect or copy juvenile records shall be obtained from the Court Clerk and shall not be provided by the Probation Officer.

610.3.4 PERSONNEL RECORDS

Personnel records, medical records and similar records which would involve personal privacy shall not be made public (Government Code § 6254((c)); Penal Code § 832.7; Penal Code § 832.8).

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 officer subject to any criminal or administrative investigation shall not be released without the consent of the involved officer, prior approval of the Chief Probation Officer or as required by law.

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610.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any department member who receives a request for any record shall route the request to the Office of the Chief Probation Officer.

610.4.1 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).

610.5 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, County Counsel or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

610.6 RELEASE OF INFORMATION TO CRIME VICTIMS

Crime Victims have a constitutional right to be included in the Court process as their case is being adjudicated. Probation Officers have certain statutory obligations in felony cases to notify victims of their right to appear at Sentencing Hearings, their right to make a statement to the Court, the right to restitution and/or civil recovery for losses, and the right to review the recommendation of the Probation Officer.

Given the general rights of Crime Victims, there is an inherent right to certain information relating to the offense and its adjudication. Thus, Crime Victims may be furnished the address of probationers if their interest is to pursue civil litigation. The Probation Officer should carefully screen such requests. The Crime Victim may be furnished with dispositional information regarding a case if it has impact on restitution or any potential danger that they may face.

610.7 RELEASE OF INFORMATION DURING FIELD CONTACTS

During the course of supervising a probationer, especially while making field contacts, the Probation Officer may interact with friends, neighbors, or employers of the probationer. During such incidental contact, it may be necessary for the Probation Officer to identify oneself, leading by implication to the conclusion that the subject of the inquiry is a probationer. The mere fact that

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an individual is subject to probation jurisdiction is not protected in the same manner as Criminal Offender Record Information. Such incidental revelation is therefore permissible, and should be handled with discretion.

The key element for field officers is to properly identify themselves and the scope of their duties in making the field contact. In this context, the release of information would be limited to the establishment of probation jurisdiction and not for a specific release of Criminal Offender Record Information.

610.8 RELEASE OF INFORMATION DURING TELEPHONE CALLS

Confidential information should not be released via the telephone unless the identity of the caller has been established and they meet the criteria of both the need to know and the right to know. When a routine telephone inquiry begins with an open-ended request such as "May I speak to John Doe's Probation Officer?" or "Is John Doe on probation?" Such requests should be transferred to a Probation Officer who must carefully scrutinize, and verify, the circumstances of the caller to determine if they are authorized to receive any confidential information. If not authorized, no such information will be released.

This does not preclude the officer from receiving information from the caller regarding a probationer. It is important that the probation officer take the call seriously even if the caller does not want to be identified. The officer is to document the information received and then check it out. This may include conducting a search, drug testing a probationer, interviewing witnesses, etc. Much information regarding the behavior of the probationer is available from the public and confidentiality is not an issue as long as the officer does not discuss the case with the caller.

610.9 RELEASE OF INFORMATION - DUTY TO WARN

Under general tort law, an individual who has a special custodial relationship or control of another person owes a duty of care to any third party or the public in general who may be endangered by a breach of this duty of care. A probation officer has this type of relationship to a probationer under his/her care, custody, or control.

This duty to warn would occur when a threat of harm is directed toward a specific victim. In *Tarasoff v. Regents of the University of California*, the California Supreme Court held that a psychotherapist owed a duty to the victim of a patient's direct threat to her, in spite of the confidential relationship between a psychotherapist and patient. In *Thompson v. County of Alameda*, this principle of a duty to warn when there is a specific victim was reiterated.

610.10 RELEASE OF INFORMATION WITH A SIGNED WAIVER

If a probationer or former probationer has signed a waiver specifically designated to release their Criminal Record and/or probation status to a specific person or entity and the release would assist in furthering the rehabilitation of the probationer, the Criminal History Information may be released.

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A military recruiter is not an authorized release entity according to the Attorney General; thus a signed release is required to furnish such information.

An employment, job training, or educational program is not necessarily an authorized release entity according to the Attorney General; thus a signed release is required to furnish such information.

Protected Information

612.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the access, transmission, release and security of protected information by members of the Monterey County Probation Department. This policy addresses the protected information that is used in the day-to-day operation of the Department and not the public records information covered in the Records Maintenance and Release Policy.

612.1.1 DEFINITIONS

Definitions related to this policy include:

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

612.2 POLICY

Members of the Monterey County Probation Department will adhere to all applicable laws, orders, regulations, use agreements and training related to the access, use, dissemination and release of protected information.

612.3 RESPONSIBILITIES

The Chief Probation Officer shall select a member of the Department to coordinate the use of protected information.

The responsibilities of this position include, but are not limited to:

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

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612.4 ACCESS TO PROTECTED INFORMATION

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

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

612.4.1 PENALTIES FOR MISUSE OF RECORDS

It is a misdemeanor to furnish, buy, receive or possess Department of Justice criminal history information without authorization by law (Penal Code § 11143).

Authorized persons or agencies violating state regulations regarding the security of Criminal Offender Record Information (CORI) maintained by the California Department of Justice may lose direct access to CORI (11 CCR 702).

612.4.2 RELEASE OF CORI

Only the persons listed below are authorized to release 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.

- (a) Supervising Office Assistant
- (b) Designated employees of the Supervising Office Assistant

612.5 RELEASE OR DISSEMINATION OF PROTECTED INFORMATION

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

A member who is asked to release protected information that should not be released should refer the requesting person to a supervisor or to the Supervising Office Assistant for information regarding a formal request.

Unless otherwise ordered or when an investigation would be jeopardized, protected information maintained by the Department may generally be shared with authorized persons from other law enforcement agencies who are assisting in the investigation or conducting a related investigation. Any such information should be released through the Supervising Office Assistant to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

612.5.1 REVIEW OF CRIMINAL OFFENDER RECORD

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

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

612.5.2 TRANSMISSION GUIDELINES

Protected information, such as restricted Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should not be transmitted via unencrypted radio. When circumstances reasonably indicate that the immediate safety of officers, other department members, or the public is at risk, only summary information may be transmitted.

In cases where the transmission of protected information, such as Personally Identifiable Information, is necessary to accomplish a legitimate law enforcement purpose, and utilization of an encrypted radio channel is infeasible, a MDT or department-issued cellular telephone should be utilized when practicable. If neither are available, unencrypted radio transmissions shall be subject to the following:

- Elements of protected information should be broken up into multiple transmissions, to minimally separate an individual's combined last name and any identifying number associated with the individual, from either first name or first initial.
- Additional information regarding the individual, including date of birth, home address, or physical descriptors, should be relayed in separate transmissions.

Nothing in this policy is intended to prohibit broadcasting warrant information.

612.6 SECURITY OF PROTECTED INFORMATION

The Chief Probation Officer will select a member of the Department to oversee the security of protected information.

The responsibilities of this position include, but are not limited to:

- (a) Developing and maintaining security practices, procedures and training.
- (b) Ensuring federal and state compliance with the CJIS Security Policy and the requirements of any state or local criminal history records systems.
- (c) Establishing procedures to provide for the preparation, prevention, detection, analysis and containment of security incidents including computer attacks.
- (d) Tracking, documenting and reporting all breach of security incidents to the Chief Probation Officer and appropriate authorities.

612.6.1 MEMBER RESPONSIBILITIES

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

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table or desk; in or on an unattended vehicle; in an unlocked desk drawer or file cabinet; on an unattended computer terminal).

612.7 TRAINING

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

612.8 TRAINING PROGRAM

All personnel authorized to process or release CORI shall be required to complete a training program prescribed by the Criminal Record Security Officer. The Training PSM shall coordinate the course to provide training in the proper use, control, and dissemination of CORI.

612.9 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 § 339.5.6 (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 § 339.5.6 (a).

612.10 CALIFORNIA RELIGIOUS FREEDOM ACT

Members shall not release personal information from any agency database for the purpose of investigation or enforcement of any program compiling data on individuals based on religious belief, practice, affiliation, national origin or ethnicity (Government Code § 8310.3).

Destruction of Probation Files

613.1 POLICY

Probation files generally will be destroyed five years after the Probation Department has closed its interest in the case.

The authority for the destruction of probation files are as follows:

- Adult files - PC 1203.7 (c) and PC 1203.10

"...Five years after termination of probation in any case subject to this section, the probation officer may destroy any records and papers in his or her possession relating to such case."

- Juvenile files - W&I 826 (a)

"After five years from the date on which the jurisdiction of the juvenile court over a minor is terminated, the probation officer may destroy all records and papers in the proceedings concerning the minor. "

613.2 EXCEPTION

The exception to this policy is that probation files containing any information regarding sex offenses will be maintained by the Probation Department.

Chapter 7 - Personnel

Recruitment and Selection

700.1 PURPOSE AND SCOPE

This policy provides a framework for employee recruiting efforts and identifying job-related standards for the selection process. This policy supplements the rules that govern employment practices for the Monterey County Probation Department and that are promulgated and maintained by the Department of Human Resources.

700.2 APPLICANT QUALIFICATIONS

Candidates for job openings will be selected based on merit, ability, competence and experience.

All peace officer candidates must meet the minimum standards described in California Government Code § 1031 in addition to the employment standards established by this department.

700.3 STANDARDS

Employment standards shall be established for each job classification and shall include minimally, the special training, abilities, knowledge and skills required to perform the duties of the job in a satisfactory manner. The Monterey County Department of Human Resources maintains standards for all positions.

Evaluation of Employees

702.1 PURPOSE AND SCOPE

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

702.2 POLICY

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

The Department evaluates employees in a non-discriminatory manner based upon job-related factors specific to the employee's position, without regard to actual or perceived race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, age, disability, pregnancy, genetic information, veteran status, marital status, and any other classification or status protected by law.

702.3 FULL-TIME PERMANENT STATUS PERSONNEL

Permanent employees are subject to three types of performance evaluations:

Regular - An Employee Performance Evaluation shall be completed once each year by the employee's immediate supervisor on the anniversary of the employee's date of hire except for employees who have been promoted in which case an Employee Performance Evaluation shall be completed on the anniversary of the employee's date of last promotion.

Transfer - If an employee is transferred from one assignment to another in the middle of an evaluation period and less than six months have transpired since the transfer, then an evaluation shall be completed by the current supervisor with input from the previous supervisor.

Special - A special evaluation may be completed any time the rater and the rater's supervisor feel one is necessary due to employee performance that is deemed less than standard. Generally, the special evaluation will be the tool used to demonstrate those areas of performance deemed less than standard when follow-up action is planned (action plan, remedial training, retraining, etc.). The evaluation form and the attached documentation shall be submitted as one package.

702.3.1 RATINGS

When completing the Employee Performance Evaluation, the rater will place a check mark in the column that best describes the employee's performance. The definition of each rating category is as follows:

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Outstanding - Is actual performance well beyond that required for the position. It is exceptional performance, definitely superior or extraordinary.

Above Standard - Represents performance that is better than expected of a fully competent employee. It is superior to what is expected, but is not of such rare nature to warrant outstanding.

Standard - Is the performance of a fully competent employee. It means satisfactory performance that meets the standards required of the position.

Needs Improvement - Is a level of performance less than that expected of a fully competent employee and less than standards required of the position. A needs improvement rating must be thoroughly discussed with the employee.

Unsatisfactory - Performance is inferior to the standards required of the position. It is very inadequate or undesirable performance that cannot be tolerated.

Space for written comments is provided at the end of the evaluation in the rater comments section. This section allows the rater to document the employee's strengths, weaknesses, and suggestions for improvement. Any rating under any job dimension marked unsatisfactory or outstanding shall be substantiated in the rater comments section.

702.4 EVALUATION INTERVIEW

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

The employee may also request a meeting with the rater's supervisor to discuss the evaluation.

702.5 EVALUATION REVIEW

After the supervisor finishes the discussion with the employee, the signed performance evaluation is forwarded to the rater's supervisor. The reviewing officer shall review the evaluation for fairness, impartiality, uniformity, and consistency.

If the employee has requested a meeting with the reviewing officer, a private meeting will be set as soon as practical. After the meeting, the reviewing officer will either note that he/she concurs with the ratings given or that he/she does not concur with the ratings given. Should the reviewing officer make any changes to the evaluation, he/she will attach a written explanation for the changes.

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702.6 EVALUATION DISTRIBUTION

The original performance evaluation shall be maintained in the employee's personnel file in the office of the Chief Probation Officer for the tenure of the employee's employment. A copy will be given to the employee.

Promotional Policy

703.1 PURPOSE AND SCOPE

The purpose of this policy is to establish required and desirable qualifications for promotion within the ranks of the Monterey County Probation Department.

703.2 GENERAL REQUIREMENTS

Employees will be evaluated for promotions based on factors which include, but are not limited to the following:

- (a) Presents a professional, neat appearance
- (b) The member maintains a physical condition, which aids in their performance
- (c) Demonstrates:
 - 1. Emotional stability and maturity
 - 2. Sound judgment and decision making
 - 3. Personal integrity
 - 4. Honesty
 - 5. Leadership
 - 6. Initiative
 - 7. Ability to confront and/or deal with issues both positive and/or negative
 - 8. Ability to conform to organizational goals and objectives
 - 9. Overall performance as noted in EPR's
 - 10. Cross training/experience
 - 11. The specific promotion to be made
 - 12. Special skills and abilities of the applicant
 - 13. Time in position
 - 14. Time with the department

Promotions are made by administration, which considers all of the above. Upon the selection for promotion, the employee(s) will be contacted to verify acceptance of the position. All candidates will be contacted and advised of the decision. Whenever possible, this contact will be made via telephone, prior to the formal announcement of the promotion.

703.3 PROMOTIONAL SPECIFICATIONS

Specifications for promotional opportunities are on file with the Monterey County Department of Human Resources and Employment Services.

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Grievance Procedure

706.1 PURPOSE AND SCOPE

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

706.1.1 GRIEVANCE DEFINED

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

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

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

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

706.2 PROCEDURE

The grievance procedure is outlined in the applicable Memorandum of Understanding.

706.3 EMPLOYEE REPRESENTATION

Employees are entitled to have representation during the grievance process. The representative may be selected by the employee from the appropriate employee bargaining group.

Reporting of Employee Convictions

709.1 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.

709.2 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

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

709.3 OTHER CRIMINAL CONVICTIONS AND COURT ORDERS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty, or nolo contendere plea.

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

Outstanding warrants as provided in Penal Code § 29805 also place restrictions on a member's ability to possess a firearm.

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

709.4 REPORTING PROCEDURE

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

All members and all retired officers with an identification card issued by the Department shall further promptly notify their immediate supervisor (or the Chief Probation Officer in the case of retired officers) in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order.

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

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

709.5 PROCEDURE FOR RELIEF

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

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

Pending satisfactory proof of relief from any legal restriction imposed on an employee's duties, the employee may be placed on administrative leave, reassigned, or disciplined. The 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.

Drug- and Alcohol-Free Workplace

711.1 PURPOSE AND SCOPE

The purpose of this policy is to establish clear and uniform guidelines regarding drugs and alcohol in the workplace (41 USC § 8103).

711.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

711.2.1 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.

711.3 GENERAL GUIDELINES

Alcohol and drug use in the workplace or on department time can endanger the health and safety of department members and the public.

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

711.3.1 CONFIDENTIALITY

The Department recognizes the confidentiality and privacy due employees, and disclosure of any information relating to chemical abuse treatment, except on a need to know basis, shall only be with the expressed written consent of the employee involved or pursuant to lawful process.

711.3.2 USE OF MARIJUANA

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

Vacation Requests

712.1 POLICY

Every effort will be made to accommodate vacation requests of each employee, provided the employee's absence does not affect the efficient operation of the department. Other considerations are as follows:

- (a) Vacation requests will be approved by the requesting employee's supervisor/manager once it has been established there is adequate unit coverage.
- (b) If the employee is transferred to another work site after the vacation request has been approved, the new supervisor/manager should be notified immediately so that all efforts can be made to honor the request.
- (c) Vacation requests are to be limited to three weeks maximum at one time. Longer vacation requests must be approved by the Division Director.

The respective Division Director will have the final responsibility and authority for making decisions in the event there is a dispute about a vacation request.

Sick Leave

713.1 PURPOSE AND SCOPE

This policy provides general guidance regarding the use and processing of sick leave. The accrual and terms of use of sick leave for eligible employees are detailed in the County personnel manual or applicable collective bargaining agreement.

This policy is not intended to cover all types of sick or other leaves. For example, employees may be entitled to additional paid or unpaid leave for certain family and medical reasons as provided for in the Family and Medical Leave Act (FMLA) (29 USC § 2601 et seq.), the California Family Rights Act, leave for victims of crime or abuse, or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

713.2 POLICY

It is the policy of the Monterey County Probation Department to provide eligible employees with a sick leave benefit.

713.3 USE OF SICK LEAVE

Sick leave is intended to be used for qualified absences. Sick leave is not considered vacation. Abuse of sick leave may result in discipline, denial of sick leave benefits, or both.

Employees on sick leave shall not engage in other employment or self-employment or participate in any sport, hobby, recreational activity or other activity that may impede recovery from the injury or illness (see Outside Employment Policy).

Qualified appointments should be scheduled during a member's non-working hours when it is reasonable to do so.

713.3.1 USE OF SICK LEAVE/ANNUAL LEAVE/PERSONAL TIME OFF (PTO)

- (a) Sick leave shall be taken in increments of not less than one-quarter(1/4) hour.
- (b) An employee must use all sick days and/or vacation time accrued before going on an unpaid leave of absence.
- (c) An employee on an unpaid leave of absence does not accrue vacation time or sick leave and is not eligible for holiday pay.
- (d) Employees may also be eligible for short-term disability benefits under the County of Monterey's short-term disability insurance.
- (e) If you fail to inform the personnel office of your medical status when you return from a leave of absence, or if you fail to return upon the expiration of a leave of absence or extended leave of absence, this will be considered job abandonment and may result in termination.

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713.3.2 NOTIFICATION

Employees who are unable to report to work due to personal (or family) illness or injury must notify his or her supervisor or the supervisor's representative as soon as possible or, if the employee works in an institution, this notification must be made no later than one-half hour before the start of their regularly scheduled or assigned shift. Employees working at all other locations must notify their supervisors or their supervisor's representative no later than one-half hour after the start of their regularly schedule or assigned shift. Notification must be made to a person, not a machine.

If an employee becomes sick during the day, the employee must notify the supervisor on duty and receive his/her approval before leaving the work site. Failure to follow these procedures will result in an unexcused absence and may result in disciplinary action.

713.3.3 MEDICAL CERTIFICATION

- (a) The Probation Department may require medical certification or other substantiating evidence of illness or injury for any period of three days or more.
- (b) In the event an employee is absent for more than three working days, that employee may be required to provide a written physician's note to the personnel office verifying that the employee is fit for return to work. A doctor's note following an absence of more than three days must list any work restrictions for the employee and the duration of those restrictions.
- (c) An employee cannot use personal sick leave/PTO until it is accrued.
- (d) Medical certification for an absence of a single day will be required if a pattern of abuse or excessive use of sick leave exists.
- (e) Physicians' notes requiring a "no work" period of longer than one month will not be accepted. A new assessment by the physician must be provided on a month-by-month basis. Failure to provide a monthly assessment by a physician for a long-term injury or illness may result in an unexcused absence and could lead to disciplinary action.
- (f) An employee with a life-threatening and/or chronic serious illness may provide a physician's note that delineates certain work restrictions. In these cases, if a physician formally determines that those job restrictions are permanent and unlikely to change, the employee is not required to provide a monthly update.
- (g) Employees are responsible for keeping their supervisors and the personnel office informed of their medical status.

713.3.4 NOTIFICATION

All members should notify the Shift Supervisor or appropriate supervisor as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor (Labor Code § 246).

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When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the Department with no less than 30 days' notice of the impending absence (Labor Code § 246).

Upon return to work, members are responsible for ensuring their time off was appropriately accounted for, and for completing and submitting the required documentation describing the type of time off used and the specific amount of time taken.

713.4 EXTENDED ABSENCE

Members absent from duty for more than three consecutive days may be required to furnish a statement from a health care provider supporting the need to be absent and/or the ability to return to work. Members on an extended absence shall, if possible, contact their supervisor at specified intervals to provide an update on their absence and expected date of return.

Nothing in this section precludes a supervisor from requiring, with cause, a health care provider's statement for an absence of three or fewer days after the first three days of paid sick leave are used in a 12-month period.

713.5 MATERNITY LEAVE

Normal pregnancy and/or complications arising from pregnancy shall be considered an illness and shall be included within the provision of the County's policy.

- Employees shall be eligible for leave of absence without pay for maternity leave of up to six (6) months even if said employees have used all accrued sick and vacation leave. These leaves of absence shall be approved under the same provisions for other types of leaves of absence without pay as outlined by County policy.
- FMLA/CFRA will run concurrently. FMLA/CFRA will not commence without a doctor's note justifying a medical reason for FMLA/CFRA.

713.6 NON WORK RELATED MEDICAL DISABILITY LEAVE (NON-FMLA)

If an employee is medically certified to be temporarily disabled for any reason the Chief Probation Officer may grant the employee up to a maximum of four (4) weeks of unpaid medical disability leave of absence and will be considered on a case-by-case basis.

- Employees requesting a disability leave must submit a request for leave in writing describing the reason for the leave at least thirty (30) days in advance to his or her supervisor. The supervisor then will contact the personnel office to initiate the necessary paperwork.
- Requests for an extension must be submitted in writing. Forms are available in the personnel office.

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713.7 CARING FOR FAMILY

Permanent employees may be granted use of accumulated sick leave because of illness of a father, mother, grandparents, grandchildren, brother, sister, wife, husband, child, registered domestic partner, or child of registered domestic partner provided that, in the judgment of the appointing authority, a medical condition exists that warrants the employee's personal attendance. In exceptional cases, such leave may be granted by the appointing authority for illness of father-in-law or mother-in-law when it can be demonstrated that a bona fide illness exists that warrants his/her personal attendance during his/her normally scheduled work hours.

- The appointing authority may require a physician's certificate or other substantiating evidence of such family illness.
- Family care absences shall be limited to ten (10) working days in any calendar year (January 1 " December 31) when used for such purposes. For Budget Unit X and Y, family care absences shall be limited to (5) working days.

713.8 SUPERVISOR RESPONSIBILITIES

The responsibilities of supervisors include, but are not limited to:

- (a) Monitoring and regularly reviewing the attendance of those under their command to ensure that the use of sick leave and absences is consistent with this policy.
- (b) Attempting to determine whether an absence of four or more days may qualify as family medical leave and consulting with legal counsel or the Department of Human Resources as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
 1. Negatively affected the member's performance or ability to complete assigned duties.
 2. Negatively affected department operations.
- (d) When appropriate, counseling members regarding excessive absences and/or inappropriate use of sick leave.
- (e) Referring eligible members to an available employee assistance program when appropriate.

Alternative Work Schedule

714.1 PURPOSE AND SCOPE

It is the policy of this Department to comply with the Monterey County Policy regarding the use of alternative work schedules and flextime. This Department will strive to accommodate, whenever possible, without negatively impacting a Unit, an employee's request to work an alternative work schedule.

714.2 ALTERNATIVE SCHEDULE REQUESTS

Requests for an alternative/flextime schedule must be submitted on the [Alternative Schedule Request Form](#) attached to this policy and are subject to the following conditions:

- (a) Appropriate supervision is available to assure that protective measures are provided for health, safety and welfare of employees within the work place
- (b) Adequate staff coverage sufficient to meet the operating requirements of the department shall be maintained at all times
- (c) All training takes priority over regularly scheduled days off

Detailed guidelines for the use of Alternative Work Schedule are contained in the County Alternative Work Schedule Policy.

Authorization for an alternative schedule request must be approved by the Division Director.

714.2.1 GENERAL OPTIONS

Alternative work schedule options include the following:

- (a) Adjustment by the Day (flextime)
- (b) Adjustment for an extended period up to six months (long term flextime)
- (c) 9/80 Alternative Work Schedule
- (d) 4/10 Alternative Work Schedule (Generally utilized in the Institutions)

Communicable Diseases

715.1 PURPOSE AND SCOPE

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

715.2 PROCEDURES FOR EXPOSURE TO BLOOD, BODILY FLUIDS OR AEROSOL TRANSMISSIBLE DISEASES

All department personnel who are exposed to another person's blood, bodily fluids or an aerosol transmissible disease (e.g., during an altercation or while attending to any injured person) shall follow these procedures and guidelines.

Exposure to blood or other potentially infectious materials includes, but is not limited to, the contact of such substances with the eye, mouth, other mucous membranes, non-intact skin, needle sticks, human bites, cuts or abrasions or any exposure that otherwise qualifies under Health and Safety Code § 121060.1 or 8 CCR § 5193.

Exposure to an aerosol transmissible disease is any event in which all of the following have occurred (8 CCR 5199):

- (a) An employee has been exposed to an individual who is a case or a suspected case of a reportable aerosol transmissible disease, or to a work area or to equipment that is reasonably expected to contain aerosol transmissible pathogens associated with a reportable aerosol transmissible disease.
- (b) The exposure occurred without the benefit of applicable exposure controls required by this policy.
- (c) It reasonably appears from the circumstances of the exposure that transmission of disease is sufficiently likely to require medical evaluation.

715.2.1 SAFETY COORDINATOR

The Chief Probation Officer will assign a person as the Department's Safety Coordinator. The Safety Coordinator shall be responsible for the following:

- (a) The overall management of the bloodborne pathogen Exposure Control Plan (ECP).
- (b) Establishing written procedures and a training program related to aerosol transmissible diseases, as required by 8 CCR § 5199.
- (c) Working with management to develop and administer any additional related policies and practices necessary to support the effective implementation of this plan.
- (d) Remaining current on all legal requirements concerning bloodborne pathogens and other communicable diseases, as required by 8 CCR § 5193.

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- (e) Acting as a liaison during OSHA inspections, conducting program audits to maintain an up-to-date ECP and ensuring exposure report forms are available and adequate for employees to properly report incidents of exposure.
- (f) Maintaining an up-to-date list of department personnel requiring training. Developing and implementing a training program, maintaining class rosters and quizzes, and periodically reviewing and updating the training program.
- (g) Reviewing and updating the ECP annually (on or before January 1 of each year).

Department supervisors are responsible for exposure control in their respective areas. They shall work directly with the Safety Coordinator and any affected employees to ensure that the proper exposure control procedures are followed.

715.2.2 UNIVERSAL PRECAUTIONS

All human blood and body fluids such as saliva, urine, semen, and vaginal secretions are to be treated as if they are known to be infectious. Where it is not possible to distinguish between body fluid types, all body fluids are to be assumed potentially infectious.

715.2.3 PERSONAL PROTECTIVE EQUIPMENT

Personal protective equipment is the last line of defense against communicable disease. Therefore, the following equipment is provided for all personnel to assist in the protection against such exposures:

- Not less than two pair disposable latex gloves. (Keeping a box in the car recommended.)
- Safety glasses or goggles
- Rescue mask with a one-way valve
- Alcohol (or similar substance) to flush skin at emergency site. (Keeping several alcohol hand wipes in the car recommend)

The protective equipment is to be kept in each department vehicle; inspected at the start of each shift and replaced immediately upon returning to the station if used or damaged during the shift, or as otherwise needed.

715.2.4 IMMUNIZATIONS

All department personnel who, in the line of duty, may be exposed to or have contact with a communicable disease shall be offered appropriate treatment immunization.

715.2.5 WORK PRACTICES

All personnel shall use the appropriate barrier precautions to prevent skin and mucous membrane exposure whenever contact with blood or body fluid is anticipated.

Disposable gloves shall be worn on all medical emergency responses. Disposable gloves shall be worn before making physical contact with any patient and/or when handling items (e.g.,

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evidence, transportation vehicle) soiled with blood or other body fluids. Should one's disposable gloves become contaminated with blood or other body fluids, the gloves shall be disposed of as contaminated waste. Care should be taken to avoid touching other items (e.g., pens, books, and personal items in general) while wearing the disposable gloves in a potentially contaminated environment.

All procedures involving blood or other potentially infectious materials shall be done in a way to minimize splashing, spraying, or otherwise generating droplets of those materials.

Eating, drinking, smoking, applying lip balm, and handling contact lenses shall be prohibited in areas where a potential for an exposure exists.

715.3 DISPOSAL AND DECONTAMINATION

The following procedures will apply to the disposal and decontamination after responding to an event that involved contact with a person's blood or body fluids:

715.3.1 USE OF WASTE CONTAINERS

Officers shall dispose of biohazard with the on-scene fire response vehicle, or at the attending clinic/hospital with their approval, or in an appropriately marked biohazard waste container at the station immediately upon arrival.

The biohazard waste container located at the station shall be collapsible, leakproof, red in color or appropriately labeled with a biohazard warning and routinely emptied.

715.3.2 DECONTAMINATION OF SKIN AND MUCOUS MEMBRANES

Personnel shall wash their hands immediately (on-scene if possible), or as soon as possible following the removal of potentially contaminated gloves. Antibacterial soap and warm water or an approved disinfectant shall be used to wash one's hands, paying particular attention to the fingernails.

If an employee's intact skin contacts someone else's blood or bodily fluids or other potentially infectious materials, the employee shall immediately wash the exposed part of his/her body with soap and warm water and/or an approved disinfectant, as soon as possible. If the skin becomes grossly contaminated, body washing shall be followed by an approved hospital strength disinfectant. If large areas of the employee's skin are contaminated, the employee shall shower as soon as possible, using warm water and soap and/or an approved disinfectant. Medical treatment should be obtained.

Contaminated non-intact skin (e.g., injured skin, open wound) shall be cleaned using an approved disinfectant and then dressed or bandaged as required. Medical treatment is required.

All hand, skin, and mucous membrane washing that takes place in the station shall be done in the designated cleaning or decontamination area. Cleaning shall not be done in the kitchen, bathrooms, or other locations not designated as the cleaning or decontamination area.

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715.3.3 SHARPS AND ITEMS THAT CUT OR PUNCTURE

All personnel shall avoid using or holding sharps (needles) unless needed to do so while assisting a paramedic, or collecting them for evidence. Unless required for evidentiary reasons related to evidence preservation, employees are not to recap sharps. If recapping is necessary, a one-handed method shall be employed to avoid a finger prick. Disposal, when practicable, shall be into a puncture proof biohazard container.

All sharps and items that cut or puncture (e.g., broken glass, razors, and knives) shall be treated cautiously to avoid cutting, stabbing, or puncturing one's self or any other person. In addition, if a sharp object contains known or suspected blood or other bodily fluids, that item is to be treated as a contaminated item. If the item is not evidence, touching it with the hands shall be avoided. Rather, use a device such as tongs, or a broom and a dustpan to cleanup debris. If the material must be hand held, protective gloves must be worn.

715.3.4 DISPOSABLE PROTECTIVE EQUIPMENT

Contaminated disposable supplies (gloves, dressings, CPR mask) shall be transported with the patient or suspect in the ambulance or probation vehicle. The waste material shall then be disposed of in a biohazard waste container at the hospital or probation station. Disposable gloves are to be worn while placing the waste into the waste biohazard container, placing the gloves in with the waste when through.

715.3.5 DECONTAMINATION OF PERSONAL PROTECTIVE EQUIPMENT

After using any reusable personal protective equipment, it shall be washed or disinfected and stored appropriately. If the personal protective equipment is non-reusable (e.g., disposable gloves), it shall be discarded in a biohazard waste container as described in Policy Manual § 1016.3.4.

Any personal protective equipment that becomes punctured, torn, or loses its integrity, shall be removed as soon as feasible. The employee shall wash up and replace the personal protective equipment if the job has not been terminated. If this situation resulted in a contaminated non-intact skin event, Policy Manual § 1016.3.2 shall be implemented.

Contaminated reusable personal protective equipment that must be transported prior to cleaning it shall be placed into a biohazard waste bag and transported in the ambulance, paramedic truck or probation vehicle. Gloves shall be worn while handling the biohazard waste bag and during placement into the biohazard waste container, and then included in with the waste.

715.3.6 DECONTAMINATION OF NON-DISPOSABLE EQUIPMENT

Contaminated non-disposable equipment (e.g., flashlight, gun, baton, clothing, portable radio) shall be decontaminated as soon as possible. If it is to be transported, it shall be done by first placing it into a biohazard waste bag.

Grossly contaminated non-disposable equipment items shall be transported to a hospital, fire station, or probation station for proper cleaning and disinfecting. Porous surfaces such as nylon bags and straps shall be brushed and scrubbed with a detergent and hot water, laundered and

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allowed to dry. Non-porous surfaces (e.g., plastic or metal) shall be brushed and scrubbed with detergent and hot water, sprayed with a bleach solution, rinsed, and allowed to dry. Delicate equipment (e.g., radios) should be brushed and scrubbed very carefully using a minimal amount of a type of germicide that is approved by Environmental Protection Agency (EPA) .

While cleaning equipment, pay close attention to handles, controls, portable radios, and corners (tight spots). Equipment cleaning shall not be done in the kitchen, bathrooms, or other areas not designated as the cleaning/decontamination area.

Contaminated equipment should be cleaned using an approved EPA germicide or a 1:100 solution of chlorine bleach (one-quarter-cup of bleach per one gallon of water) while wearing disposable gloves and goggles. Large particles of contaminants such as, vomit, feces, blood clots, etc. should first be removed (using a disposable towel or other means to prevent direct contact) and properly disposed of.

715.3.7 DECONTAMINATION OF CLOTHING

Contaminated clothing such as uniforms and undergarments shall be removed as soon as feasible and rinsed in cold water to prevent the setting of bloodstains. If the clothing may be washed in soap and hot water, do so as soon as possible. If the clothing must be dry cleaned, place it into a biohazard waste bag and give it to the Safety Coordinator. The Safety Coordinator will secure a dry cleaner that is capable of cleaning contaminated clothing, and inform them of the potential contamination. This dry cleaning will be done at the Department's expense.

Contaminated leather boots shall be brushed and scrubbed with detergent and hot water. If the contaminant soaked through the boot, the boot shall be discarded.

715.3.8 DECONTAMINATION OF VEHICLES

Contaminated vehicles and components such as the seats, radios, and doors shall be washed with soap and warm water and disinfected with an approved germicide as soon as feasible.

715.3.9 DECONTAMINATION OF STATION AND CLEANING AREA

The Safety Coordinator shall designate a location at each office that will serve as the area for cleaning/decontamination. This area is to be used to keep equipment clean and sanitary and for the employees to wash any potential contamination from their bodies. This area is to be thoroughly cleaned after each use and to be maintained in a clean and sanitary order at all times between each use. The application of cosmetics, smoking cigarettes, food and drink are prohibited in this designated area at all times.

715.4 POST-EXPOSURE REPORTING AND FOLLOW-UP REQUIREMENTS

In actual or suspected exposure incidents, proper documentation and follow-up action must occur to limit potential liabilities and to ensure the best protection and care for the employee(s).

715.4.1 EMPLOYEE RESPONSIBILITY TO REPORT EXPOSURE

To provide appropriate and timely treatment should exposure occur, all employees shall verbally report the exposure to their immediate supervisor and complete a written exposure report as

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soon as possible following the exposure or suspected exposure. That report shall be submitted to the employee's immediate supervisor. Additionally, employees should document in the exposure report whether they would like the person who was the source of the exposure to be tested for communicable diseases.

715.4.2 SUPERVISOR REPORTING REQUIREMENTS

The supervisor on-duty shall investigate every exposure that occurs as soon as possible following the incident, while gathering the following information:

- (a) Name and social security number of the employee(s) exposed.
- (b) Date and time of incident.
- (c) Location of incident.
- (d) What potentially infectious materials were involved.
- (e) Source of material or person.
- (f) Current location of material or person.
- (g) Work being done during exposure.
- (h) How the incident occurred or was caused.
- (i) PPE in use at the time of the incident.
- (j) Actions taken post-event (e.g., clean-up, notifications).

The supervisor shall advise the employee of the laws and regulations concerning disclosure of the identity and infectious status of a source, and Policy § 1016.5, which addresses source testing.

If the Safety Coordinator is unavailable to seek testing of the person who was the source of the exposure, it is the responsibility of the exposed employee's supervisor to ensure testing is sought (Policy § 1016.5).

715.4.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

Any employee who was exposed or who suspects he/she was exposed to HIV or to hepatitis B or C should be seen by a physician or qualified health care provider as soon as possible. The doctor or qualified health care provider should be provided with the supervisor's report and the employee's medical records relevant to the visit and examination. The blood of the exposed employee shall be tested.

The health care professional will provide the Safety Coordinator and/or the County's Risk Manager with a written opinion/evaluation of the exposed employee's medical condition. This opinion should only contain the following information:

- If a post-exposure treatment is indicated for the employee.
- If the employee received a post-exposure treatment.
- Confirmation that the employee received the evaluation results.

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- Confirmation that the employee was informed of any medical condition resulting from the exposure incident and whether further treatment or evaluation will be required.
- Whether communicable disease testing from the source is warranted, and if so, which diseases should the testing include.

All other findings or diagnosis shall remain confidential and are not to be included in the written report.

715.4.4 COUNSELING

The Department shall provide the exposed employee (and his/her family if necessary) the opportunity for counseling and consultation.

715.4.5 CONFIDENTIALITY OF REPORTS

Most of the information involved in this process must remain confidential. The Safety Coordinator shall ensure that all records and reports are kept in the strictest confidence.

The Safety Coordinator shall be responsible for maintaining records containing the employee's treatment status and the results of examinations, medical testing and follow-up procedures.

The Risk Manager shall be responsible for maintaining the name and social security number of the employee and copies of any information provided to the consulting health care professional.

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

715.5 SOURCE TESTING

Testing for communicable diseases of a person who was the source of an exposure should be sought when it is desired by the exposed employee or when it is otherwise appropriate. There are five methods to obtain such testing. It is the responsibility of the Safety Coordinator to ensure that the proper testing and reporting occur. These methods are:

- (a) Obtaining voluntary consent from any person who may be the source of an exposure to cover testing for any communicable disease.
- (b) Filing a report with the county health officer when an employee is exposed to the bodily fluids of an arrestee. The county health officer may pursue testing for HIV or hepatitis B or C (Penal Code § 7510 et seq.).
- (c) Seeking consent for testing or applying for a court order for HIV, hepatitis B and hepatitis C testing (Health and Safety Code § 121060 et seq.).
- (d) Seeking a court order when the person who may be the source of an exposure will not consent to testing and the exposure does not fall under the statutory schemes for testing. This covers testing for any communicable disease as deemed appropriate by a health care professional and documented in the request for the court order.

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- (e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing an adult or juvenile when an employee of the Monterey County Probation Department qualifies as a crime victim (Penal Code § 1524.1).

715.5.1 EXPOSURE FROM A NON-ARRESTEE

Upon notification of an employee's exposure to a person who was not arrested, the Safety Coordinator should attempt to determine if the person who was the source of the exposure will voluntarily consent to testing. If consent is indicated, the following steps should be taken:

- (a) A licensed health care provider should notify the person to be tested of the exposure and make a good faith effort to obtain voluntary informed consent from the person or his/her authorized legal representative to perform a test for HIV, hepatitis B, hepatitis C and other communicable diseases the health care provider deems appropriate.
- (b) The voluntary informed consent obtained by the health care provider must be in writing and include consent for three specimens of blood for testing. The Safety Coordinator should document the consent as a supplement to the Exposure Control Report.
- (c) The results of the tests should be made available to the source and the exposed employee.

If consent is not obtained, the Safety Coordinator should promptly consult with County Counsel and consider requesting that a court order be sought for appropriate testing.

715.5.2 EXPOSURE FROM AN ARRESTEE

Upon notification of an exposure to an employee by a person who was arrested, the Safety Coordinator should take the following steps:

- (a) Comply with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.
- (b) Take reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).
- (c) In all cases, comply with the reporting and testing scheme of Penal Code § 7510 et seq. This includes completing a State Department of Health Services Form CDPH 8479 and submitting it to the County Health Officer with a copy of the Exposure Control Report by the end of the employee's shift. If submission by the end of the shift is not practicable, it must occur as soon as possible but no later than two days after the incident. The exposed employee's name should not appear on this form.
- (d) Remain in contact with the County Health Officer to determine whether testing of the arrestee will occur and whether the testing satisfies the medical needs of the employee.

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- (e) The results of the tests should be made available to the donor and the exposed employee.

Since there is potential for overlap between the two statutory schemes, the Safety Coordinator is responsible for coordinating the testing with the County Health Officer to prevent unnecessary or duplicate testing.

In the rare event that the exposed employee is not covered by either statutory scheme, the Safety Coordinator should seek consent or a court order in the same manner as for a non-arrestee.

Smoking and Tobacco Use

717.1 PURPOSE AND SCOPE

This policy establishes limitations on smoking and the use of tobacco products by members and others while on-duty or while in Monterey County Probation Department facilities or vehicles.

For the purposes of this policy, smoking and tobacco use includes, but is not limited to, any tobacco product, such as cigarettes, cigars, pipe tobacco, snuff, tobacco pouches and chewing tobacco, as well as any device intended to simulate smoking, such as an electronic cigarette or personal vaporizer.

717.2 POLICY

Smoking and other use of tobacco products is not permitted inside department facilities or any department vehicle. It shall also be the responsibility of all employees to ensure that no person smokes or uses 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.).

Employees in uniform are also prohibited from smoking or using tobacco products while in public view.

Staff in Need of Mental Health Assistance

718.1 POLICY

When staff appear in need of assistance with their own Mental Health issues, use the following guidelines:

- (a) If the condition is acute (suicidal, violent, etc.) call 911 immediately and request the Psychiatric Assessment Team to evaluate the staff person. NOTE: Do not accept an "over the phone" assessment.
- (b) If the staff person's condition is not acute and he/she is under the care of a provider for Mental Health Services, help that person make arrangements for service even if it means transporting the staff to the service provider.

718.1.1 EMPLOYEE ASSISTANCE PROGRAM

Supervisors and Managers should refer staff to the Employee Assistance Program when it appears that an employee is need of assistance. The types of issues the Employee Assistance Program can address include but are not limited to the following:

- Marital and family problems
- Alcohol abuse
- Drug dependency
- Credit concerns
- Stress issues
- Emotional problems

In the event that a referral of a staff is made to either the Psychiatric Assessment Team or the Employee's Assistance Program, please notify the Office of the Chief via chain of command.

Personnel Complaints

719.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Monterey County Probation Department. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

719.2 POLICY

The Monterey County Probation Department takes seriously all complaints regarding the service provided by the Department and the conduct of its members.

The Department will accept and address all complaints of misconduct in accordance with this policy and applicable federal, state and local law, municipal and county rules and the requirements of any collective bargaining agreements.

It is also the policy of this department to ensure that the community can report misconduct without concern for reprisal or retaliation.

719.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

719.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Informal - A matter in which the Shift Supervisor is satisfied that appropriate action has been taken by a supervisor of rank greater than the accused member.

Formal - A matter in which a supervisor determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or referred to the Internal Affairs PSM, depending on the seriousness and complexity of the investigation.

Incomplete - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the assigned supervisor or the Internal Affairs PSM, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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719.3.2 SOURCES OF COMPLAINTS

The following applies to the source of complaints:

- (a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.
- (b) Any department member becoming aware of alleged misconduct shall immediately notify a supervisor.
- (c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.
- (d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.
- (e) Tort claims and lawsuits may generate a personnel complaint.

719.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

719.4.1 COMPLAINT FORMS

Personal complaint forms will be maintained and readily available at all Probation Department facilities.

719.4.2 ACCEPTANCE

All complaints will be courteously accepted by any department member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs, or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of the complaining party's statement at the time it is filed with the Department (Penal Code § 832.7).

719.5 DOCUMENTATION

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

All complaints and inquiries should also be documented in a log that records and tracks complaints. The log shall include the nature of the complaint and the actions taken to address the complaint. On an annual basis, the Department should audit the log and send an audit report to the Chief Probation Officer or the authorized designee.

719.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

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719.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the member's immediate supervisor, unless the supervisor is the complainant, or the supervisor is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief Probation Officer or the authorized designee may direct that another supervisor investigate any complaint.

A supervisor who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that upon receiving or initiating any formal complaint, a complaint form is completed.
 - 1. The original complaint form will be directed to the Probation Services Manager of the accused member, via the chain of command, who will take appropriate action and/or determine who will have responsibility for the investigation.
 - 2. In circumstances where the integrity of the investigation could be jeopardized by reducing the complaint to writing or where the confidentiality of a complainant is at issue, a supervisor shall orally report the matter to the member's Division Director or the Chief Probation Officer, who will initiate appropriate action.
- (b) Responding to all complaints in a courteous and professional manner.
- (c) Resolving those personnel complaints that can be resolved immediately.
 - 1. Follow-up contact with the complainant should be made as soon as practicable after the Department receives the complaint.
 - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Assistant Chief Probation Officer.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Shift Supervisor and the Office of the Chief Probation Officer are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Department of Human Resources and the Office of the Chief Probation Officer for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.
- (f) Forwarding unresolved personnel complaints to the Division Director, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Investigating a complaint as follows:
 - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
 - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.

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- (h) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).
- (i) Ensuring interviews of the complainant are generally conducted during reasonable hours.

719.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Internal Affairs PSM, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the Monterey County Probation Department or other reasonable and appropriate place.
- (c) No more than two interviewers should ask questions of an accused member.
- (d) Prior to any interview, a member shall be informed of the nature of the investigation, the name, rank and command of the officer in charge of the investigation, the interviewing officers and all other persons to be present during the interview.
- (e) All interviews shall be for a reasonable period and the member's personal needs should be accommodated.
- (f) No member should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.
- (g) Any member refusing to answer questions directly related to the investigation may be ordered to answer questions administratively and may be subject to discipline for failing to do so.
 - 1. A member should be given an order to answer questions in an administrative investigation that might incriminate the member in a criminal matter only after the member has been given a *Lybarger* advisement. Administrative investigators should consider the impact that compelling a statement from the member may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).
 - 2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.

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- (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, in order to maintain the integrity of each individual's statement, involved members shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.
- (j) All members shall provide complete and truthful responses to questions posed during interviews.
- (k) No member may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any officer solely because the officer has been placed on a prosecutor's *Brady* list or the name of the officer may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the officer has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

719.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Formal investigations of personnel complaints shall be thorough, complete and essentially follow this format:

Introduction - Include the identity of the members, the identity of the assigned investigators, the initial date and source of the complaint.

Synopsis - Provide a brief summary of the facts giving rise to the investigation.

Summary - List the allegations separately, including applicable policy sections, with a brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

Evidence - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of member and witness statements. Other evidence related to each allegation should also be detailed in this section.

Conclusion - A recommendation regarding further action or disposition should be provided.

Exhibits - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

719.6.4 DISPOSITIONS

Each personnel complaint shall be classified with one of the following dispositions:

Unfounded - When the investigation discloses that the alleged acts did not occur or did not involve department members. Complaints that are determined to be frivolous will fall within the classification of unfounded.

Exonerated - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

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Not sustained - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

Sustained - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

719.6.5 COMPLETION OF INVESTIGATIONS

Every investigator or supervisor assigned to investigate a personnel complaint or other alleged misconduct shall proceed with due diligence in an effort to complete the investigation within one year from the date of discovery by an individual authorized to initiate an investigation (Government Code § 3304).

In the event that an investigation cannot be completed within one year of discovery, the assigned investigator or supervisor shall ensure that an extension or delay is warranted within the exceptions set forth in Government Code § 3304(d) or Government Code § 3508.1.

The assigned investigator or supervisor shall ensure that within 30 days of the final disposition of the complaint, the complainant is provided written notification of the disposition (Penal Code § 832.7(e)).

719.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, with the member's consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

719.7.1 DISCLOSURE OF FINANCIAL INFORMATION

An employee may be compelled to disclose personal financial information under the following circumstances (Government Code § 3308):

- (a) Pursuant to a state law or proper legal process
- (b) Information exists that tends to indicate a conflict of interest with official duties
- (c) If the employee is assigned to or being considered for a special assignment with a potential for bribes or other improper inducements

719.8 ADMINISTRATIVE LEAVE

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the

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Chief Probation Officer or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

719.9 CRIMINAL INVESTIGATION

The Chief Probation Officer shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief Probation Officer may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of his/her constitutional rights (Government Code § 3303(h)). The member should not be administratively ordered to provide any information in the criminal investigation.

No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

The Monterey County Probation Department may release information concerning the arrest or detention of any member, including an officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

719.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief Probation Officer through the chain of command. Each level of command should review the report and include his/her comments in writing before forwarding the report. The Chief Probation Officer may accept or modify any classification or recommendation for disciplinary action.

719.10.1 PROBATION SERVICES MANAGER RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Probation Services Manager of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Probation Services Manager may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the appropriate Division Director, the PSM may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

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When forwarding any written recommendation to the Division Director, the PSM shall include all relevant materials supporting the recommendation. Actual copies of a member's existing personnel file need not be provided and may be incorporated by reference.

719.10.2 DIVISION DIRECTOR RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Division Director shall review the recommendation and all accompanying materials. The Division Director may modify any recommendation and/or may return the file to the Probation Services Manager for further investigation or action.

Once the Division Director is satisfied that no further investigation or action is required by staff, the Division Director shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Division Director shall provide the member with written (Skelly) notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Division Director shall also provide the member with:

- (a) Access to all of the materials considered by the Division Director in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Assistant Chief Probation Officer within five days of receiving the notice.
 - 1. Upon a showing of good cause by the member, the Assistant Chief Probation Officer may grant a reasonable extension of time for the member to respond.
 - 2. If the member elects to respond orally, the presentation may be recorded by the Department. Upon request, the member shall be provided with a copy of the recording.

Once the member has completed his/her response or if the member has elected to waive any such response, the Assistant Chief Probation Officer shall consider all information received in regard to the recommended discipline. The Assistant Chief Probation Officer shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Assistant Chief Probation Officer has issued a written decision, the discipline shall become effective.

719.11 PRE-DISCIPLINE EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Assistant Chief Probation Officer after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.

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- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Assistant Chief Probation Officer to consider.
- (d) In the event that the Assistant Chief Probation Officer elects to cause further investigation to be conducted, the employee shall be provided with the results prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Assistant Chief Probation Officer on the limited issues of information raised in any subsequent materials.

719.12 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE

In the event that a member tenders a written resignation or notice of retirement prior to the imposition of discipline, it shall be noted in the file. The tender of a resignation or retirement by itself shall not serve as grounds for the termination of any pending investigation or discipline (Penal Code § 13510.8).

719.13 POST-DISCIPLINE APPEAL RIGHTS

Non-probationary employees have the right to appeal a suspension without pay, punitive transfer, demotion, reduction in pay or step, or termination from employment. The employee has the right to appeal using the procedures established by any collective bargaining agreement, Memorandum of Understanding and/or personnel rules.

In the event of punitive action against an employee covered by the POBR, the appeal process shall be in compliance with Government Code § 3304 and Government Code § 3304.5.

During any administrative appeal, evidence that an officer has been placed on a Brady list or is otherwise subject to Brady restrictions may not be introduced unless the underlying allegations of misconduct have been independently established. Thereafter, such Brady evidence shall be limited to determining the appropriateness of the penalty (Government Code § 3305.5).

719.14 PROBATIONARY EMPLOYEES AND OTHER MEMBERS

At-will and probationary employees and those members other than non-probationary employees may be released from employment for non-disciplinary reasons (e.g., failure to meet standards) without adherence to the procedures set forth in this policy or any right to appeal. However, any probationary officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304).

At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief Probation Officer or authorized designee for a non-evidentiary hearing for the sole purpose

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of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief Probation Officer shall be final.

719.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel complaints shall be maintained in accordance with the established records retention schedule and as described in the Personnel Files Policy.

Travel Policy

720.1 PURPOSE AND SCOPE

All business related travel for the Probation Department is governed by the policies, procedures and guidelines contained in the Monterey County Travel Policy. For specific information, the employee is referred to that policy.

720.2 AUTHORIZED TRAVEL

Travel will be authorized only when the travel is necessary and in the best interest of the County.

Employees requesting travel authorization shall complete the Probation Department Travel and Training Request form in its entirety. The form is to be submitted by the employee's supervisor to the Division Director for final approval.

Upon approval, the assigned support staff will prepare the Claim for Payment form and process the matter through the Probation Department Finance Office.

Exceptions to the above are same day travel with no costs other than private mileage and/or one day travel to transport a Court ward with no costs other than meals. Travel under these exceptions shall occur only with the consent and approval of the employee's supervisor.

720.2.1 TRAVEL ADVANCES

Travel advances must be requested on the Travel and Training Request form and must be received a minimum of ten working days before the anticipated departure.

Seat Belts

721.1 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).

721.2 WEARING OF SAFETY RESTRAINTS

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

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

721.3 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 Probation Officer.

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.

Personnel Records

725.1 PURPOSE AND SCOPE

This policy governs maintenance and access to personnel records. Personnel records include any file maintained under an individual member's name.

725.2 POLICY

It is the policy of this department to maintain personnel records and preserve the confidentiality of personnel records pursuant to the Constitution and the laws of California (Penal Code § 832.7).

725.3 DEPARTMENT FILE

The department file shall be maintained as a record of a person's employment/appointment with this department. The department file should contain, at a minimum:

- (a) Personal data, including photographs, marital status, names of family members, educational and employment history, or similar information. A photograph of the member should be permanently retained.
- (b) Election of employee benefits.
- (c) Personnel action reports reflecting assignments, promotions, and other changes in employment/appointment status. These should be permanently retained.
- (d) Original performance evaluations. These should be permanently maintained.
- (e) Discipline records, including copies of sustained personnel complaints.
 1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained pursuant to the established records retention schedule and at least two years (Government Code § 26202; Government Code § 34090).
 2. Disciplinary action resulting from a sustained civilian's complaint shall be maintained pursuant to the established records retention schedule and at least five years (Penal Code § 832.5).
- (f) Adverse comments such as supervisor notes or memos may be retained in the department file after the member has had the opportunity to read and initial the comment (Government Code § 3305).
 1. Once a member has had an opportunity to read and initial any adverse comment, the member shall be given the opportunity to respond in writing to the adverse comment within 30 days (Government Code § 3306).
 2. Any member response shall be attached to and retained with the original adverse comment (Government Code § 3306).
 3. If a member refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original comment and the member should sign or initial the noted refusal. Such a refusal, however, shall

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not be deemed insubordination, nor shall it prohibit the entry of the adverse comment into the member's file (Government Code § 3305).

- (g) Commendations and awards.
- (h) Any other information, the disclosure of which would constitute an unwarranted invasion of personal privacy.

725.4 SUPERVISOR DROP FILE

Supervisor drop files may be separately maintained internally by a member's supervisor for the purpose of completing timely performance evaluations. The file may contain supervisor comments, notes, notices to correct and other materials that are intended to serve as a foundation for the completion of timely performance evaluations.

All materials intended for this interim file shall be provided to the employee prior to being placed in the file in accordance with Government Code § 3305 and Government Code § 3306.

725.5 TRAINING FILE

An individual training file shall be maintained by the Training PSM for each member. Training files will contain records of all training; original or photocopies of available certificates, transcripts, diplomas and other documentation; and education and firearms qualifications. Training records may also be created and stored remotely, either manually or automatically (e.g., Daily Training Bulletin (DTB) records).

- (a) The involved member is responsible for providing the Training PSM or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training PSM or supervisor shall ensure that copies of such training records are placed in the member's training file.

725.6 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the Internal Affairs PSM in conjunction with the office of the Chief Probation Officer. Access to these files may only be approved by the Chief Probation Officer or the Internal Affairs PSM supervisor.

These files shall contain the complete investigation of all formal complaints of member misconduct, regardless of disposition (Penal Code § 832.12). Investigations of complaints that result in the following findings shall not be placed in the member's file but will be maintained in the internal affairs file:

- (a) Not sustained
- (b) Unfounded
- (c) Exonerated

Investigation files arising out of civilian's complaints shall be maintained pursuant to the established records retention schedule and for a period of at least five years. Investigations that

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resulted in other than a sustained finding may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5).

Investigation files arising out of internally generated complaints shall be maintained pursuant to the established records retention schedule and for at least two years (Government Code § 26202; Government Code § 34090).

725.7 MEDICAL FILE

A medical file shall be maintained separately from all other personnel records and shall contain all documents relating to the member's medical condition and history, including but not limited to:

- (a) Materials relating to a medical leave of absence, including leave under the Family and Medical Leave Act (FMLA).
- (b) Documents relating to workers' compensation claims or the receipt of short- or long-term disability benefits.
- (c) Fitness-for-duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records that reveal a member's medical condition.
- (e) Any other documents or materials that reveal the member's medical history or medical condition, including past, present or future anticipated mental, psychological or physical limitations.

725.8 SECURITY

Personnel records should be maintained in a secured location and locked either in a cabinet or access-controlled room. Personnel records maintained in an electronic format should have adequate password protection.

Personnel records are subject to disclosure only as provided in this policy, the Records Maintenance and Release Policy or according to applicable discovery procedures.

Nothing in this policy is intended to preclude review of personnel records by the Presiding Judge of the Superior Court, County Counsel or other attorneys or representatives of the County in connection with official business.

725.8.1 REQUESTS FOR DISCLOSURE

Any member receiving a request for a personnel record shall promptly notify the Custodian of Records or other person charged with the maintenance of such records.

Upon receipt of any such request, the responsible person shall notify the affected member as soon as practicable that such a request has been made (Evidence Code § 1043).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this may require assistance of available legal counsel.

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All requests for disclosure that result in access to a member's personnel records shall be logged in the corresponding file.

725.8.2 RELEASE OF PERSONNEL INFORMATION

Personnel records shall not be disclosed except as allowed by law (Penal Code § 832.7; Evidence Code § 1043) (See also Records Maintenance and Release Policy).

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

The Department may release any factual information concerning a disciplinary investigation if the member who is the subject of the investigation (or the member's representative) publicly makes a statement that is published in the media and that the member (or representative) knows to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7).

725.9 BRADY MATERIAL IN PERSONNEL FILES

The purpose of this section is to establish a procedure for releasing potentially exculpatory information (so-called Brady material) contained within confidential peace officer personnel files.

725.9.1 DEFINITIONS

Brady Material - In the Brady v. Maryland decision (373 U.S. 83 (1963)) the United States Supreme Court held that the prosecution has an affirmative duty to disclose to the defendant evidence which is both favorable and material to the guilt and/or punishment of the defendant.

The Prosecution - Refers to the District Attorney and all investigative agencies involved in the criminal prosecution of a defendant, including this department.

Penal Code § 1054.1 - California law also establishes a criminal defendant's right to access potentially exculpatory evidence.

725.9.2 RELEASE OF PERSONNEL FILES TO DISTRICT ATTORNEY

Pursuant to Penal Code § 832.7(a), the only time the District Attorney (Attorney General or Grand Jury) is entitled to access confidential peace officer personnel files without filing a so-called Pitchess motion (Evidence Code § 1043 et seq.) is when they are investigating the conduct of an officer or this department. Such access shall not be considered a waiver of the confidentiality of the information contained in these files.

Absent a specific investigation of identified officer(s) or a specific investigation of this department (or the consent of an involved officer), no confidential information from any officer's personnel file shall be released to the District Attorney or Grand Jury without full compliance with the Pitchess process. The prosecution of a criminal defendant is not considered an investigation of any involved officer.

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Should an officer's credibility or other issues related to an officer's personnel file arise in the context of an officer acting as a witness for the prosecution, access to that officer's personnel file by either the District Attorney or the criminal defendant shall be limited to that which is authorized by the process set forth in Evidence Code § 1043, et seq.

725.9.3 PROCEDURE

If an officer is a material witness in a criminal case, a person or persons designated by the Chief Probation Officer may examine the subject officer's personnel file to determine whether there are Brady materials contained therein (e.g., evidence which is both favorable and material to the guilt and/or punishment of the defendant). If Brady material is located, the following procedure shall apply:

- (a) In the event that a Pitchess motion has not already been filed by the criminal defendant or other party, the District Attorney shall be notified of the potential presence of Brady material in the officer's personnel file
- (b) The District Attorney should be instructed to file a Pitchess motion in order to initiate an in camera review by the court
- (c) As with any Pitchess motion, and prior to any review of the files by the court, subject officer(s) shall be notified in writing that a Pitchess motion has been filed
- (d) The responsible Custodian of Records shall accompany all relevant personnel files during any in camera inspection and address any issues or questions raised by the court in determining whether or not any material contained in the file is both material and favorable to the criminal defendant
- (e) If the court determines that there is relevant Brady material contained in the file(s), only that material ordered released will be copied and released to the parties filing the Pitchess motion
 1. Prior to the release of any materials pursuant to this process, the Custodian of Records should request a protective order from the Court limiting the use of such materials to the involved case and requiring the return of all copies upon completion of the case.

725.10 MEMBER ACCESS TO HIS/HER OWN PERSONNEL RECORDS

Any member may request access to his/her own personnel records during the normal business hours of those responsible for maintaining such files. Any member seeking the removal of any item from his/her personnel records shall file a written request to the Chief Probation Officer through the chain of command. The Department shall remove any such item if appropriate, or within 30 days provide the member with a written explanation of why the contested item will not be removed. If the contested item is not removed from the file, the member's request and the written response from the Department shall be retained with the contested item in the member's corresponding personnel record (Government Code § 3306.5).

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Members may be restricted from accessing files containing any of the following information:

- (a) An ongoing internal affairs investigation to the extent that it could jeopardize or compromise the investigation pending final disposition or notice to the member of the intent to discipline.
- (b) Confidential portions of internal affairs files that have not been sustained against the member.
- (c) Criminal investigations involving the member.
- (d) Letters of reference concerning employment/appointment, licensing or issuance of permits regarding the member.
- (e) Any portion of a test document, except the cumulative total test score for either a section of the test document or for the entire test document.
- (f) Materials used by the Department for staff management planning, including judgments or recommendations concerning future salary increases and other wage treatments, management bonus plans, promotions and job assignments or other comments or ratings used for department planning purposes.
- (g) Information of a personal nature about a person other than the member if disclosure of the information would constitute a clearly unwarranted invasion of the other person's privacy.
- (h) Records relevant to any other pending claim between the Department and the member that may be discovered in a judicial proceeding.

725.11 RETENTION AND PURGING

Unless provided otherwise in this policy, personnel records shall be maintained in accordance with the established records retention schedule.

- (a) During the preparation of each member's performance evaluation, all personnel complaints and disciplinary actions should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. Each supervisor responsible for completing the member's performance evaluation should determine whether any prior sustained disciplinary file should be retained beyond the required period for reasons other than pending litigation or other ongoing legal proceedings.
- (b) If a supervisor determines that records of prior discipline should be retained beyond the required period, approval for such retention should be obtained through the chain of command from the Chief Probation Officer.
- (c) If, in the opinion of the Chief Probation Officer, a personnel complaint or disciplinary action maintained beyond the required retention period is no longer relevant, all records of such matter may be destroyed in accordance with the established records retention schedule.

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725.12 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF OFFICERS

Personnel records and records related to certain incidents, complaints, and investigations of officers shall be released pursuant to a proper request under the Public Records Act and subject to redaction and delayed release as provided by law.

The Custodian of Records should work as appropriate with the Chief Probation Officer or the Internal Affairs PSM supervisor in determining what records may qualify for disclosure when a request for records is received and if the requested record is subject to redaction or delay from disclosure.

For purposes of this section, a record includes (Penal Code § 832.7(b)(2)):

- All investigation reports.
- Photographic, audio, and video evidence.
- Transcripts or recordings of interviews.
- Autopsy reports.
- All materials compiled and presented for review to the District Attorney or to any person or body charged with determining whether to file criminal charges against an officer in connection with an incident, or whether the officer's action was consistent with law and department policy for purposes of discipline or administrative action, or what discipline to impose or corrective action to take.
- Documents setting forth findings or recommending findings.
- Copies of disciplinary records relating to the incident, including any letters of intent to impose discipline, any documents reflecting modifications of discipline due to the *Skelly* or grievance process, and letters indicating final imposition of discipline or other documentation reflecting implementation of corrective action.

Unless a record or information is confidential or qualifies for delayed disclosure as provided by Penal Code § 832.7(b)(7) or other law, the following records shall be made available for public inspection upon request (Penal Code § 832.7):

- (a) Records relating to the report, investigation, or findings of:
 1. The discharge of a firearm at another person by an officer.
 2. The use of force against a person resulting in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) by an officer.
- (b) Records relating to an incident where a sustained finding (see the Personnel Complaints Policy) was made by the department or oversight agency regarding:
 1. An officer engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
 2. Dishonesty of an officer relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by,

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another officer, including but not limited to any sustained finding of perjury, false statements, filing false reports, destruction, falsifying, or concealing of evidence.

A record from a separate and prior investigation or assessment of a separate incident shall not be released unless it is independently subject to disclosure (Penal Code § 832.7(b)(3)).

When an investigation involves multiple officers, the Department shall not release information about allegations of misconduct or the analysis or disposition of an investigation of an officer unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(4) against the officer. However, factual information about the action of the officer during an incident or the statements of an officer shall be released if the statements are relevant to a sustained finding of the qualified allegation against another officer that is subject to release (Penal Code § 832.7(b)(4)).

725.12.1 REDACTION

The Custodian of Records, in consultation with the Chief Probation Officer or authorized designee, shall redact the following portions of records made available for release (Penal Code § 832.7(b)(5)):

- (a) Personal data or information (e.g., home address, telephone number, identities of family members) other than the names and work-related information of officers
- (b) Information that would compromise the anonymity of complainants and witnesses
- (c) Confidential medical, financial, or other information where disclosure is prohibited by federal law or would cause an unwarranted invasion of personal privacy that clearly outweighs the strong public interest in records about misconduct and serious use of force
- (d) Where there is a specific, articulable, and particularized reason to believe that disclosure of the record would pose a significant danger to the physical safety of the officer or another person

Additionally, a record may be redacted, including redacting personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosing it (Penal Code § 832.7(b)(6)).

725.12.2 DELAY OF RELEASE

Unless otherwise directed by the Chief Probation Officer, the Custodian of Records should consult with a supervisor familiar with the underlying investigation to determine whether to delay disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury due to any of the following conditions (Penal Code § 832.7):

- (a) Active criminal investigations
 - 1. Disclosure may be delayed 60 days from the date the use of force occurred or until the District Attorney determines whether to file criminal charges, whichever occurs sooner.

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2. After the initial 60 days, delay of disclosure may be continued if the disclosure could reasonably be expected to interfere with a criminal enforcement proceeding against an officer or against someone other than an officer who used the force.
 - (b) Filed criminal charges
 1. When charges are filed related to an incident where force was used, disclosure may be delayed until a verdict on those charges is returned at trial or, if a plea of guilty or no contest is entered, the time to withdraw the plea has passed.
 - (c) Administrative investigations
 1. Disclosure may be delayed until whichever occurs later:
 - (a) There is a determination from the investigation whether the use of force violated law or department policy, but no longer than 180 days after the date of the department's discovery of the use of force or allegation of use of force
 - (b) Thirty days after the close of any criminal investigation related to the officer's use of force

725.12.3 NOTICE OF DELAY OF RECORDS

When there is justification for delay of disclosure of records relating to the discharge of a firearm or use of force resulting in death or in great bodily injury during an active criminal investigation, the Custodian of Records shall provide written notice of the reason for any delay to a requester as follows (Penal Code § 832.7):

- (a) Provide the specific basis for the determination that the interest in delaying disclosure clearly outweighs the public interest in disclosure. The notice shall also include the estimated date for the disclosure of the withheld information.
- (b) When delay is continued beyond the initial 60 days because of criminal enforcement proceedings against anyone, at 180-day intervals provide the specific basis that disclosure could reasonably be expected to interfere with a criminal enforcement proceeding and the estimated date for disclosure.
 1. Information withheld shall be disclosed when the specific basis for withholding the information is resolved, the investigation or proceeding is no longer active, or no later than 18 months after the date of the incident, whichever occurs sooner, unless:
 - (a) When the criminal proceeding is against someone other than an officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the Department must show by clear and convincing evidence that the interest in preventing prejudice to the active and ongoing criminal investigation or proceeding outweighs the public interest for prompt disclosure of records about use of serious force by officers.

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In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, the Department may justify delay by filing an application to seal the basis for withholding if disclosure of the written basis itself would impact a privilege or compromise a pending investigation (Penal Code § 832.7(b)(7)).

Transfer Policy

727.1 PURPOSE AND SCOPE

Work assignments are made to meet the needs of the Department and are subject to the approval of the Chief Probation Officer, who may delegate to the respective Director. Assignments/reassignments decisions will be made by management, who will consider workload trends, existing vacancies, an employee's skills or special abilities, physical ability/limitation, employee's development/cross training, county seniority and time in present assignments, level of performance in present or other assignment and the employee's preference as to assignment and job location.

727.2 TRANSFER REQUESTS

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.

In most instances, employees will be required to remain in a position for at least two years before a transfer request will be considered. There may be occasions when exceptions are made to this standard, based upon departmental need or an individual's personal situation.

Employees who are interested in other assignments must complete a [Transfer Request Form](#) and have it approved by their supervisor and forward to the Division Director, then to the Personnel Unit. Transfer requests will remain active for two years from the date they are submitted.

The final decision regarding any reassignment request rests with the Chief Probation Officer or his/her designee. The final decision will be based on the needs of the department.

The Chief Probation Officer retains the right to transfer staff whether or not they have submitted a transfer request if the situation warrants such a move.

Commendations and Awards

729.1 PURPOSE AND SCOPE

This policy provides general guidelines for recognizing commendable or meritorious acts of members of the Monterey County Probation Department and individuals from the community.

729.2 POLICY

It is the policy of the Monterey County Probation Department to recognize and acknowledge exceptional individual or group achievements, performance, proficiency, heroism and service of its members and individuals from the community through commendations and awards.

729.3 COMMENDATIONS

Commendations for members of the Department or for individuals from the community may be initiated by any department member or by any person from the community.

729.4 CRITERIA

A meritorious or commendable act may include, but is not limited to:

- Superior handling of a difficult situation.
- Conspicuous bravery or outstanding performance.
- Any action or performance that is above and beyond typical duties.

729.4.1 DEPARTMENT MEMBER DOCUMENTATION

Members of the Department should document meritorious or commendable acts. The documentation should contain:

- (a) Identifying information:
 1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
 2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the member submitting the documentation.

729.4.2 COMMUNITY MEMBER DOCUMENTATION

Documentation of a meritorious or commendable act submitted by a person from the community should be accepted in any form. However, written documentation is preferred. Department members accepting the documentation should attempt to obtain detailed information regarding the matter, including:

- (a) Identifying information:

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1. For members of the Department - name, division and assignment at the date and time of the meritorious or commendable act
 2. For individuals from the community - name, address, telephone number
- (b) A brief account of the meritorious or commendable act with report numbers, as appropriate.
- (c) The signature of the person submitting the documentation.

729.4.3 PROCESSING DOCUMENTATION

Documentation regarding the meritorious or commendable act of a member of the Department should be forwarded to the appropriate Division Director for his/her review. The Division Director should sign and forward the documentation to the Chief Probation Officer for his/her review.

The Chief Probation Officer or the authorized designee will present the commendation to the department member for his/her signature. The documentation will then be returned to the Administration secretary for entry into the member's personnel file.

Documentation regarding the meritorious or commendable act of an individual from the community should be forwarded to the Administration Division Director. The documentation will be signed by the Division Director and forwarded to the Chief Probation Officer for his/her review. An appropriate venue or ceremony to acknowledge the individual's actions should be arranged. Documentation of the commendation shall be maintained in a file designated for such records.

729.5 AWARDS

Awards may be bestowed upon members of the Department and individuals from the community. These awards include:

- Award of Merit.
- Award of Valor.
- Lifesaving Award.
- Meritorious Conduct.

Criteria for each award and the selection, presentation and display of any award are determined by the Chief Probation Officer.

Fitness for Duty

731.1 PURPOSE AND SCOPE

All officers 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 officers of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

731.2 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.

731.3 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 Shift Supervisor or employee's available Division Director, a determination should be made whether or not the employee should be temporarily relieved from his/her duties.
- (e) The Chief Probation Officer shall be promptly notified in the event that any employee is relieved from duty.

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731.4 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.

731.5 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 Shift Supervisor or unit supervisor and concurrence of a Division 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.

731.6 PHYSICAL AND PSYCHOLOGICAL EXAMINATIONS

- (a) Whenever circumstances reasonably indicate that an employee is unfit for duty, the Chief Probation Officer may serve that employee with a written order to undergo a physical and/or psychological examination in cooperation with Department of Human Resources to determine the level of the employee's fitness for duty. The order shall indicate the date, time and place for the examination.
- (b) The examining physician or therapist will provide the Department with a report indicating that the employee is either fit for duty or, if not, listing any functional limitations which limit the employee's ability to perform job duties. If the employee places his/her condition at issue in any subsequent or related administrative action/grievance, the examining physician or therapist may be required to disclose any and all information which is relevant to such proceeding (Civil Code § 56.10(c)(8)).
- (c) In order to facilitate the examination of any employee, the Department will provide all appropriate documents and available information to assist in the evaluation and/or treatment.
- (d) All reports and evaluations submitted by the treating physician or therapist shall be part of the employee's confidential personnel file.
- (e) Any employee ordered to receive a fitness for duty examination shall comply with the terms of the order and cooperate fully with the examining physician or therapist regarding any clinical interview, tests administered or other procedures as directed.

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Any failure to comply with such an order and any failure to cooperate with the examining physician or therapist may be deemed insubordination and shall be subject to discipline up to and including termination.

- (f) Once an employee has been deemed fit for duty by the examining physician or therapist, the employee will be notified to resume his/her duties.

731.7 LIMITATION ON HOURS WORKED

Absent emergency operations members should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any 2 day (48 hour) period or
- 84 hours in any 7 day (168 hour) period

Except in very limited circumstances members should have a minimum of 8 hours off between shifts. Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines.

Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

731.8 APPEALS

An employee who is separated from paid employment or receives a reduction in salary resulting from a fitness for duty examination shall be entitled to an administrative appeal as outlined in the Personnel Complaints Policy.

Time Cards

732.1 PURPOSE AND SCOPE

Time cards are submitted to the Finance Office on a bi-weekly basis for the payment of wages.

732.2 RESPONSIBILITY FOR COMPLETION OF TIME CARDS

Employees are responsible for the accurate and timely submission of time cards for the payment of wages.

732.2.1 TIME REQUIREMENTS

All employees are paid on a bi-weekly basis, usually on Friday, with certain exceptions such as holidays. Time cards shall be completed and submitted to the Finance Office as follows:

- (a) Budget Unit 255 - No later than 10:00 a.m. on the Wednesday before the end of the pay period
- (b) Budget Unit 256 - No later than 10:00 a.m. on the Thursday before the end of the pay period

The Finance Office will notify staff of changes to this schedule as needed.

Lactation Break Policy

734.1 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).

734.2 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).

734.3 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 a 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.

734.4 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.

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734.5 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.

Jury Duty

736.1 POLICY

Any permanent employee who is summoned for jury duty in any Court during scheduled working hours shall be considered to be on duty, and there shall be no loss of salary. Any fees received by the employee shall be paid into the Monterey County Treasury, with the exception of travel pay, which may be kept by the employee.

- (a) Upon receiving a summons for jury duty, the employee will advise the supervisor of the date and time.
- (b) If the employee is excused from jury duty before the end of regular working hours, he/she will report back to work and resume normal duties.

Overtime Compensation Requests

737.1 POLICY

The department will use overtime when all other alternatives have been exhausted. When it has been determined a need for overtime exists, the following will apply:

- (a) Whenever possible, all overtime must be approved by a Division Director upon recommendation by the respective Supervisor
- (b) Every attempt shall be made to flex time off for additional hours worked beyond the regular work schedule within the pay period. Overtime is accrued when the regular hours worked exceed the approved regular work schedule: 40 hours per week for non-peace officer staff and 80 hours per pay period for Deputy Probation Officers and Juvenile Institution Officers
- (c) When there is unavoidable use of overtime the staff person is to notify their immediate supervisor by the end of the next working day.
- (d) County Policy and the MOU agreements will determine payment procedures.

737.2 SUPPLEMENTAL LAW ENFORCEMENT OVERTIME

Supplemental Law Enforcement overtime events are periodically available to qualified, sworn Deputy Probation Officers II, Deputy Probation Officers III, Probation Services Managers and Probation Division Directors. DPO I(s) and lateral DPO II(s) on probationary status are not eligible.

In order to qualify for these opportunities, officers must have an annual active Defensive Tactics Certificate on file with his/her supervisor and with the Training Unit. Officers must have the proper equipment (e.g. OC, ASP baton, ballistic vest, handcuffs) and be proficient on the radio.

The Training Unit shall maintain a rotational overtime list for supplemental overtime operations. Officers must submit a written request through his/her supervisor to the Training Unit PSM in order to be placed on the list. Whenever possible, at least one DPO III or PSM will be assigned to each supplemental overtime shift. Certain Supplemental Law Enforcement overtime opportunities may require armed personnel only.

If any officer is offered an overtime opportunity and declines, his/her name will be placed at the bottom of the list. If an officer accepts an overtime shift and fails to report for the shift or cancels with insufficient notice to reasonably allow the department to fill the shift, his/her name will be removed from the overtime list for one year.

Military Leave

738.1 POLICY

In compliance with the provisions of Section 395.01 of the Military and Veterans Code, Section 1401 of the County Civil Service Rules and Probation Department Policy, Probation Department employees are entitled to receive up to 30 days paid Military Leave (time card mode MIL) per fiscal year for active National Guard or Reserve duty. Inactive duty status for weekend drills does not entitle the employee to paid Military leave status.

Probation Department employees who are members of the National Guard or Reserves must notify their supervisor in advance of their training schedule so that the required time off may be scheduled. Shift workers who have weekend duty may attempt to adjust their days off to coincide with their training. If the training days fall on their workdays, and they have been unable to adjust their schedule, they must utilize their leave balances (Vacation or Comp Time) for this time off.

Outside Employment

739.1 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 Probation Officer prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief Probation Officer in accordance with the provisions of this policy.

739.1.1 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.

Outside Overtime - Any member of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

739.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Chief Probation Officer. 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 [Declaration of Outside Employment or Activity](#), which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through channels to the Chief Probation Officer 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. Any employee seeking to renew a permit shall submit a new Outside Employment Application in a timely manner.

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)).

739.2.1 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 Probation Officer within ten days of the date of denial.

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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).

739.2.2 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 Probation Officer may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit
- (b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline
- (c) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked
- (d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status

739.3 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

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739.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Chief Probation Officer in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department.

- (a) The applicant will be required to enter into an indemnification agreement prior to approval.
- (b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:
 1. The officer(s) shall wear the departmental uniform/identification.
 2. The officer(s) shall be subject to the rules and regulations of this department.
 3. No officer may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
 4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
 5. Outside security services shall not be subject to the collective bargaining process.
 6. No officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief Probation Officer.

739.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official law enforcement action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

739.3.3 FURTHER RESTRICTIONS

Members of this Department shall not engage in any of the following types of outside employment or activity:

- (a) Any employment or activity or in any location that might bring discredit to the Department, place the Department in a derogatory position, reduce the effectiveness

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of the employee in his/her position within the Probation Department, or place the employee of Department in a "Conflict of Interest" situation.

- (b) Any employment or activity requiring membership, affiliation or allegiance to any cause or course of conduct that is inconsistent with the objectives of the Department, or would cause the employee not to discharge his/her proper duties, or would take away his/her loyalty to the Department, or cause the employee to perform against public interests.
- (c) Any employment or activity where the manufacture, transportation or sale of alcoholic beverages is the principle business.
- (d) Any employment or activity in a card room or other legalized gambling establishment.
- (e) Any employment or activity as an investigator where the member may avail him/herself to the access of criminal records, policy information, files or correspondence.
- (f) Any employment or activity where the member is acting as a bill collector, private detective or investigator, private security officer, or bouncer.
- (g) Serving of any "civil process" (i.e. summons, subpoenas, orders, etc.)

739.3.4 LIMITATION ON HOURS

No member shall work at an outside job or activity in excess of four (4) hours per day during regular work days and twelve (12) hours per day during regular days off. The total number of hours permitted during each pay period shall not exceed 48. The above shall apply to the current schedule of work.

739.4 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.

739.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to § 1040.2.2(c) of this policy.

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739.5 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 Probation Officer 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 Probation Officer 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.

739.6 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 Probation Officer whether such outside employment should continue.

In the event the Chief Probation Officer determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the County's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
- (c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the Monterey County Probation Department, a request (in writing) may be made to the Chief Probation Officer to restore the permit.

739.7 DUTY AS A DEPARTMENT EMPLOYEE

In all cases of outside employment or activity, the primary duty, obligation, and responsibility of the employee is to the Probation Department. This is particularly true when members are directed to report for duty on their days off, vacation, and when required to work overtime in connection with a job assignment.

Occupational Disease and Work-Related Injury Reporting

741.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, mental health issues, and work-related injuries.

741.1.1 DEFINITIONS

Definitions related to this policy include:

Occupational disease or work-related injury - An injury, disease, or mental health issue arising out of employment (Labor Code § 3208; Labor Code § 3208.3; Labor Code § 3212 et seq.).

741.2 POLICY

The Monterey County Probation Department will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.).

741.3 RESPONSIBILITIES

741.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event as soon as practicable, but within 24 hours, to a supervisor, and shall seek medical care when appropriate (8 CCR 14300.35).

741.3.2 SUPERVISOR RESPONSIBILITIES

A supervisor learning of any occupational disease or work-related injury should ensure the member receives medical care as appropriate.

Supervisors shall ensure that required documents regarding workers' compensation are completed and forwarded promptly. Any related Countywide disease- or injury-reporting protocol shall also be followed.

Supervisors shall determine whether the Major Incident Notification and Illness and Injury Prevention policies apply and take additional action as required.

741.3.3 DIVISION DIRECTOR RESPONSIBILITIES

The Division Director who receives a report of an occupational disease or work-related injury should review the report for accuracy and determine what additional action should be taken. The report shall then be forwarded to the Chief Probation Officer.

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741.3.4 CHIEF PROBATION OFFICER RESPONSIBILITIES

The Chief Probation Officer shall review and forward copies of the report to the Department of Human Resources. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

741.4 OTHER DISEASE OR INJURY

Diseases and injuries caused or occurring on-duty that do not qualify for workers' compensation reporting shall be documented on the designated report of injury form, which shall be signed by a supervisor. A copy of the completed form shall be forwarded to the appropriate Division Director through the chain of command and a copy sent to the Administration Division Director.

Unless the injury is extremely minor, this report shall be signed by the affected member, indicating that he/she desired no medical attention at the time of the report. By signing, the member does not preclude his/her ability to later seek medical attention.

741.5 SETTLEMENT OFFERS

When a member sustains an occupational disease or work-related injury that is caused by another person and is subsequently contacted by that person, his/her agent, insurance company or attorney and offered a settlement, the member shall take no action other than to submit a written report of this contact to his/her supervisor as soon as possible.

741.5.1 NO SETTLEMENT WITHOUT PRIOR APPROVAL

No less than 10 days prior to accepting and finalizing the settlement of any third-party claim arising out of or related to an occupational disease or work-related injury, the member shall provide the Chief Probation Officer with written notice of the proposed terms of such settlement. In no case shall the member accept a settlement without first providing written notice to the Chief Probation Officer. The purpose of such notice is to permit the County to determine whether the offered settlement will affect any claim the County may have regarding payment for damage to equipment or reimbursement for wages against the person who caused the disease or injury, and to protect the County's right of subrogation, while ensuring that the member's right to receive compensation is not affected.

Threats/Danger to Employees and Others

742.1 PURPOSE AND SCOPE

Employee safety is a major concern. It should be clearly understood that employees are not expected, during the performance of their duties, to place themselves in any situation, that presents an unreasonable degree of danger to their lives or health.

Employees shall utilize reasonable methods to minimize, reduce, or avoid danger to themselves and others. They are encouraged to seek assistance from other employees or outside agencies as appropriate. Employees are to plan and apply reasonable care and caution in all potentially dangerous situations, and use good judgment in balancing the requirements of job performance and safety issues.

742.2 THREATS TO THE EMPLOYEE

Employees shall notify his/her immediate supervisor if, as a result of employment with the Probation Department, the employee is assaulted, attacked or threatened, or any member of the employee's family is assaulted, attacked or threatened.

Should such an incident occur, every effort shall be made to prevent further or prolonged attack or injury. Serious threats and assaults shall be reported to law enforcement. The employee shall cooperate with the department to develop a long-range plan to minimize/eliminate the danger.

742.2.1 THREATS TO OTHERS

When any employee in the course of his/her duties becomes aware of a serious threat against the life, safety, or property of another person, that employee shall immediately report the information to his/her direct supervisor.

When any employee becomes aware of such a threat, any potential victim shall be given immediate and adequate notice of the impending danger in accordance with department policies.

Personal Appearance Standards

743.1 PURPOSE AND SCOPE

Probation staff, regardless of their function or assignment, should recognize that they represent the professional standard and image of this department to the public and to other agencies. Therefore, their appearance must be in good taste and reflect favorably on the department.

Although no absolute criteria can be set forth to prescribe professional dress or appearance, staff should be aware of the need to present a neat, well-groomed, and professional image to the courts and the public.

743.2 GENERAL GUIDELINES

The following guidelines are provided to assist staff in maintaining a professional appearance while performing the various duties members of this Department may be assigned.

743.2.1 OFFICE ATTIRE

During working/duty hours all personnel, sworn and non-sworn, shall wear clothing appropriate for conducting business in a professional atmosphere. Probation Officers shall wear attire that quickly transitions to court attire for unanticipated court appearances.

743.2.2 COURT ATTIRE

Court appearances require Probation staff to wear appropriate business attire: slacks, dress shoes, sport coat, dress shirt and tie for men; dress, skirt, slacks, and blouse, professional pantsuits, dress shoes for women.

743.2.3 JUVENILE HALL/YOUTH DETENTION CENTER

Institutional staff is required to wear uniforms of identification apparel, as issued or authorized by their particular institution during duty hours at the facility or while engaged in official Department business.

In lieu of uniforms or in conjunction with identification apparel staff is to wear durable, tear resistant pants or trousers, collared shirts without writing or emblems other than those approved by the Department and rubber-soled shoes suitable for long periods of standing and walking. Female staff may wear dresses and blouses of a modest nature that are suitable for supervision of minors.

743.2.4 CASUAL DAYS

Fridays are designated as casual days for all staff with the exception of institutional staff members, who must dress in uniform or designated attire for safety and security reasons. All office employees, with the exception of those officers who must appear in court may elect to wear appropriate casual wear on Fridays. If employees participate in casual day, they will be expected to maintain a neat appearance. Casual wear does not include any articles of clothing listed under inappropriate clothing.

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743.2.5 TRAINING DAYS

Training days are considered on-duty hours. Office, field, or institutional attire may be worn and must be appropriate to the training site. Casual Day attire may be worn if appropriate to the training.

743.2.6 INAPPROPRIATE ATTIRE

Unacceptable clothing that distracts from a professional work environment is not permitted. Examples of such clothing include, but are not limited to, revealing clothes, shorts, Capri pants, extremely short shirts, sandals, shirts with slogans that can be reasonably construed as obscene, suggestive, vulgar or demeaning, which advertise alcohol, tobacco, or drugs, sweat pants, and clothes that are ragged or worn out.

Blue denim jeans may only be worn on Fridays, if no Court appearances are anticipated, during "Big Week" in July, or other occasion as authorized by the Chief Probation Officer. Denim jeans of other colors are approved for field wear and during casual days.

743.2.7 EXCEPTIONS TO THIS POLICY

The Office of the Chief or any Division Director may temporarily exempt an employee from the minimum dress standard while performing a specific short-term task, for specific medical reasons, or for training.

743.2.8 NON-COMPLIANCE

Any staff member not in compliance with the Department dress policy will be directed to change into appropriate attire. If an absence from the workplace is required to change clothing, it shall not be compensated.

743.3 TATTOOS

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

743.4 BODY PIERCING OR ALTERATION

Body piercing or alteration to any area of the body visible in any authorized uniform or attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

- (a) Tongue splitting or piercing.
- (b) The complete or transdermal implantation of any material other than hair replacement.
- (c) Abnormal shaping of the ears, eyes, nose or teeth
- (d) Branding or scarification.

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743.5 WEARING OF DEPARTMENT UNIFORM/IDENTIFICATION APPAREL OFF-DUTY

No member of this department shall appear publicly in uniform in an "off-duty" status unless an emergency exists or he/she has specific prior approval from a Probation Services Manager.

Personnel who elect to wear their uniform/identification apparel to and from work shall wear an outer garment at all times, which conforms to the following:

- (a) The outer garment shall cover any distinguishable parts of the uniform/identification apparel that identifies the wearer as a member of this department.
- (b) The outer garment shall not be a portion of the uniform/identification apparel.
- (c) The outer garment shall not bear any insignias particular to this department.

To preclude public criticism, personnel electing to wear their uniform/identification apparel to and from work shall use discretion and good judgment in making prolonged or excessive stops at public establishments.

No member of this department shall authorize or permit any other person to wear his/her uniform/identification apparel at any time or for any purpose whatsoever.

Nepotism and Conflicting Relationships

749.1 PURPOSE AND SCOPE

The purpose of this policy is to ensure equal opportunity and effective employment practices by avoiding actual or perceived favoritism, discrimination or actual or potential conflicts of interest by or between members of this department. These employment practices include: recruiting, testing, hiring, compensation, assignment, use of facilities, access to training opportunities, supervision, performance appraisal, discipline and workplace safety and security.

749.1.1 DEFINITIONS

Business relationship - Serving as an employee, independent contractor, compensated consultant, owner, board member, shareholder, or investor in an outside business, company, partnership, corporation, venture or other transaction, where the Department employee's annual interest, compensation, investment or obligation is greater than \$250.

Conflict of interest - Any actual, perceived or potential conflict of interest in which it reasonably appears that a department employee's action, inaction or decisions are or may be influenced by the employee's personal or business relationship.

Nepotism - The practice of showing favoritism to relatives over others in appointment, employment, promotion or advancement by any public official in a position to influence these personnel decisions.

Personal relationship - Includes marriage, cohabitation, dating or any other intimate relationship beyond mere friendship.

Public official - A supervisor, officer or employee vested with authority by law, rule or regulation or to whom authority has been delegated.

Relative - An employee's parent, stepparent, spouse, domestic partner, significant other, child (natural, adopted or step), sibling or grandparent.

Subordinate - An employee who is subject to the temporary or ongoing direct or indirect authority of a supervisor.

Supervisor - An employee who has temporary or ongoing direct or indirect authority over the actions, decisions, evaluation and/or performance of a subordinate employee.

749.2 RESTRICTED DUTIES AND ASSIGNMENTS

The Department will not prohibit all personal or business relationships between employees. However, in order to avoid nepotism or other inappropriate conflicts, the following reasonable restrictions shall apply (Government Code § 12940):

- (a) Employees are prohibited from directly supervising, occupying a position in the line of supervision or being directly supervised by any other employee who is a relative or with whom they are involved in a personal or business relationship.

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1. If circumstances require that such a supervisor/subordinate relationship exist temporarily, the supervisor shall make every reasonable effort to defer matters pertaining to the involved employee to an uninvolved supervisor.
 2. When personnel and circumstances permit, the Department will attempt to make every reasonable effort to avoid placing employees in such supervisor/subordinate situations. The Department, however, reserves the right to transfer or reassign any employee to another position within the same classification in order to avoid conflicts with any provision of this policy.
- (b) Employees are prohibited from participating in, contributing to or recommending promotions, assignments, performance evaluations, transfers or other personnel decisions affecting an employee who is a relative or with whom they are involved in a personal or business relationship
 - (c) To avoid actual or perceived conflicts of interest, members of this department shall refrain from developing or maintaining personal or financial relationships with victims, witnesses or other individuals during the course of or as a direct result of any official contact.
 - (d) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know or reasonably should know is under the supervision of the Probation Department, is under criminal investigation, is a convicted felon, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

749.2.1 EMPLOYEE RESPONSIBILITY

Prior to entering into any personal or business relationship or other circumstance which the employee knows or reasonably should know could create a conflict of interest or other violation of this policy, the employee shall promptly notify his/her uninvolved, next highest level of supervisor.

Whenever any employee is placed in circumstances that would require the employee to take enforcement action or provide official information or services to any relative or individual with whom the employee is involved in a personal or business relationship, the employee shall promptly notify his/her uninvolved, immediate supervisor. In the event that no uninvolved supervisor is immediately available, the employee shall promptly notify dispatch to have another uninvolved employee either relieve the involved employee or minimally remain present to witness the action.

749.2.2 SUPERVISOR'S RESPONSIBILITY

Upon being notified of, or otherwise becoming aware of any circumstance that could result in or constitute an actual or potential violation of this policy, a supervisor shall take all reasonable steps to promptly mitigate or avoid such violations whenever possible. Supervisors shall also promptly notify the Chief Probation Officer of such actual or potential violations through the chain of command.

Exit Interview/Return of Equipment

750.1 POLICY

The Monterey County Probation Department strives to maintain a positive working environment and recognizes that employees who are separating from the department can be a valuable source of information and can assist in creating and maintaining a positive work environment.

Exit Interviews will therefore be scheduled for all employees who retire or resign from the department under the following guidelines:

- (a) The Assistant Chief Probation Officer or his/her designee will conduct exit interviews
- (b) Employees will be required to schedule an appointment PRIOR to signing final separation papers
- (c) Interviews are conducted to ascertain both negative and positive aspects of department operations. This information will be used to improve work sites and not to retaliate against the person offering the information

750.2 RETURN OF DEPARTMENT-ISSUED EQUIPMENT

All department-issued equipment will be returned at the time of the exit interview.

If department-issued equipment has been lost or damaged, arrangements will be made during the interview to reimburse the County for said equipment.

750.2.1 CLEARANCE OF TRAVEL ADVANCES

Prior to the exit interview, employees must contact the Finance Office to make sure there are no outstanding claims regarding travel advances.

This information is to be confirmed by the Finance Office at the exit interview.

Temporary Modified-Duty Assignments

753.1 PURPOSE AND SCOPE

This policy establishes procedures for providing temporary modified-duty assignments. This policy is not intended to affect the rights or benefits of employees under federal or state law, County rules, current memorandums of understanding or collective bargaining agreements. For example, nothing in this policy affects the obligation of the Department to engage in a good faith, interactive process to consider reasonable accommodations for any employee with a temporary or permanent disability that is protected under federal or state law.

753.2 POLICY

Subject to operational considerations, the Monterey County Probation Department may identify temporary modified-duty assignments for employees who have an injury or medical condition resulting in temporary work limitations or restrictions. A temporary assignment allows the employee to work, while providing the Department with a productive employee during the temporary period.

753.3 GENERAL CONSIDERATIONS

Priority consideration for temporary modified-duty assignments will be given to employees with work-related injuries or illnesses that are temporary in nature. Employees having disabilities covered under the Americans with Disabilities Act (ADA) or the California Fair Employment and Housing Act (Government Code § 12940 et seq.) shall be treated equally, without regard to any preference for a work-related injury.

No position in the Monterey County Probation Department shall be created or maintained as a temporary modified-duty assignment.

Temporary modified-duty assignments are a management prerogative and not an employee right. The availability of temporary modified-duty assignments will be determined on a case-by-case basis, consistent with the operational needs of the Department. Temporary modified-duty assignments are subject to continuous reassessment, with consideration given to operational needs and the employee's ability to perform in a modified-duty assignment.

The Chief Probation Officer or the authorized designee may restrict employees working in temporary modified-duty assignments from wearing a uniform, displaying a badge, carrying a firearm, operating an emergency vehicle, engaging in outside employment, or being otherwise limited in employing their peace officer powers.

Temporary modified-duty assignments shall generally not exceed a cumulative total of 1,040 hours in any one-year period.

753.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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Employees seeking a temporary modified-duty assignment should submit a written request to their Division Directors or the authorized designees. The request should, as applicable, include a certification from the treating medical professional containing:

- (a) An assessment of the nature and probable duration of the illness or injury.
- (b) The prognosis for recovery.
- (c) The nature and scope of limitations and/or work restrictions.
- (d) A statement regarding any required workplace accommodations, mobility aids or medical devices.
- (e) A statement that the employee can safely perform the duties of the temporary modified-duty assignment.

The Division Director will make a recommendation through the chain of command to the Chief Probation Officer regarding temporary modified-duty assignments that may be available based on the needs of the Department and the limitations of the employee. The Chief Probation Officer or the authorized designee shall confer with the Department of Human Resources or the County Counsel as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Shift Supervisor or Division Director, with notice to the Chief Probation Officer.

753.5 ACCOUNTABILITY

Written notification of assignments, work schedules and any restrictions should be provided to employees assigned to temporary modified-duty assignments and their supervisors. Those assignments and schedules may be adjusted to accommodate department operations and the employee's medical appointments, as mutually agreed upon with the Division Director.

753.5.1 EMPLOYEE RESPONSIBILITIES

The responsibilities of employees assigned to temporary modified duty shall include, but not be limited to:

- (a) Communicating and coordinating any required medical and physical therapy appointments in advance with their supervisors.
- (b) Promptly notifying their supervisors of any change in restrictions or limitations after each appointment with their treating medical professionals.
- (c) Communicating a status update to their supervisors no less than once every 30 days while assigned to temporary modified duty.
- (d) Submitting a written status report to the Division Director that contains a status update and anticipated date of return to full-duty when a temporary modified-duty assignment extends beyond 60 days.

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753.5.2 SUPERVISOR RESPONSIBILITIES

The employee's immediate supervisor shall monitor and manage the work schedule of those assigned to temporary modified duty.

The responsibilities of supervisors shall include, but not be limited to:

- (a) Periodically apprising the Division Director of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Division Director and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

753.6 MEDICAL EXAMINATIONS

Prior to returning to full-duty status, employees shall be required to provide certification from their treating medical professionals stating that they are medically cleared to perform the essential functions of their jobs without restrictions or limitations.

The Department may require a fitness-for-duty examination prior to returning an employee to full-duty status, in accordance with the Fitness for Duty Policy.

753.7 PREGNANCY

If an employee is temporarily unable to perform regular duties due to a pregnancy, childbirth, or a related medical condition, the employee will be treated the same as any other temporarily disabled employee (42 USC § 2000e(k)). A pregnant employee shall not be involuntarily transferred to a temporary modified-duty assignment. Nothing in this policy limits a pregnant employee's right to a temporary modified-duty assignment if required under Government Code § 12945.

753.7.1 NOTIFICATION

Pregnant employees should notify their immediate supervisors as soon as practicable and provide a statement from their medical providers identifying any pregnancy-related job restrictions or limitations. If at any point during the pregnancy it becomes necessary for the employee to take a leave of absence, such leave shall be granted in accordance with the County's personnel rules and regulations regarding family and medical care leave.

753.8 PROBATIONARY EMPLOYEES

Probationary employees who are assigned to a temporary modified-duty assignment shall have their probation extended by a period of time equal to their assignment to temporary modified duty.

753.9 MAINTENANCE OF CERTIFICATION AND TRAINING

Employees assigned to temporary modified duty shall maintain all certification, training and qualifications appropriate to both their regular and temporary duties, provided that the certification, training or qualifications are not in conflict with any medical limitations or restrictions. Employees

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who are assigned to temporary modified duty shall inform their supervisors of any inability to maintain any certification, training or qualifications.

Employee Speech, Expression and Social Networking

757.1 PURPOSE AND SCOPE

This policy is intended to address issues associated with employee use of social networking sites and to provide guidelines for the regulation and balancing of employee speech and expression with the needs of the Department.

Nothing in this policy is intended to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under state or federal constitutions as well as labor or other applicable laws. For example, this policy does not limit an employee from speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, about matters of public concern, such as misconduct or corruption.

Employees are encouraged to consult with their supervisor regarding any questions arising from the application or potential application of this policy.

757.1.1 APPLICABILITY

This policy applies to all forms of communication including but not limited to film, video, print media, public or private speech, use of all internet services, including the World Wide Web, e-mail, file transfer, remote computer access, news services, social networking, social media, instant messaging, blogs, forums, video, and other file-sharing sites.

757.2 POLICY

Public employees occupy a trusted position in the community, and thus, their statements have the potential to contravene the policies and performance of this department. Due to the nature of the work and influence associated with the law enforcement profession, it is necessary that employees of this department be subject to certain reasonable limitations on their speech and expression. To achieve its mission and efficiently provide service to the public, the Monterey County Probation Department will carefully balance the individual employee's rights against the Department's needs and interests when exercising a reasonable degree of control over its employees' speech and expression.

757.3 SAFETY

Employees should consider carefully the implications of their speech or any other form of expression when using the internet. Speech and expression that may negatively affect the safety of the Monterey County Probation Department employees, such as posting personal information in a public forum, can result in compromising an employee's home address or family ties. Employees should therefore not disseminate or post any information on any forum or medium that could reasonably be anticipated to compromise the safety of any employee, an employee's family, or

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associates. Examples of the type of information that could reasonably be expected to compromise safety include:

- Disclosing a photograph and name or address of an officer who is working undercover.
- Disclosing the address of a fellow officer.
- Otherwise disclosing where another officer can be located off-duty.

757.4 PROHIBITED SPEECH, EXPRESSION AND CONDUCT

To meet the department's safety, performance and public-trust needs, the following are prohibited unless the speech is otherwise protected (for example, an employee speaking as a private citizen, including acting as an authorized member of a recognized bargaining unit or officer associations, on a matter of public concern):

- (a) Speech or expression made pursuant to an official duty that tends to compromise or damage the mission, function, reputation or professionalism of the Monterey County Probation Department or its employees.
- (b) Speech or expression that, while not made pursuant to an official duty, is significantly linked to, or related to, the Monterey County Probation Department and tends to compromise or damage the mission, function, reputation or professionalism of the Monterey County Probation Department or its employees. Examples may include:
 1. Statements that indicate disregard for the law or the state or U.S. Constitution.
 2. Expression that demonstrates support for criminal activity.
 3. Participating in sexually explicit photographs or videos for compensation or distribution.
- (c) Speech or expression that could reasonably be foreseen as having a negative impact on the credibility of the employee as a witness. For example, posting statements or expressions to a website that glorify or endorse dishonesty, unlawful discrimination or illegal behavior.
- (d) Speech or expression of any form that could reasonably be foreseen as having a negative impact on the safety of the employees of the Department. For example, a statement on a blog that provides specific details as to how and when prisoner transportations are made could reasonably be foreseen as potentially jeopardizing employees by informing criminals of details that could facilitate an escape or attempted escape.
- (e) Speech or expression that is contrary to the canons of the Law Enforcement Code of Ethics as adopted by the Monterey County Probation Department.
- (f) Use or disclosure, through whatever means, of any information, photograph, video or other recording obtained or accessible as a result of employment with the Department

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for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief Probation Officer or the authorized designee.

- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, marked vehicles, equipment or other material that specifically identifies the Monterey County Probation Department on any personal or social networking or other website or web page, without the express authorization of the Chief Probation Officer.
- (h) Accessing websites for non-authorized purposes, or use of any personal communication device, game device or media device, whether personally or department-owned, for personal purposes while on-duty, except in the following circumstances:
 - 1. When brief personal communication may be warranted by the circumstances (e.g., inform family of extended hours).
 - 2. During authorized breaks such usage should be limited as much as practicable to areas out of sight and sound of the public and shall not be disruptive to the work environment.

Employees must take reasonable and prompt action to remove any content, including content posted by others, that is in violation of this policy from any web page or website maintained by the employee (e.g., social or personal website).

757.4.1 UNAUTHORIZED ENDORSEMENTS AND ADVERTISEMENTS

While employees are not restricted from engaging in the following activities as private citizens or as authorized members of a recognized bargaining unit or officer associations, employees may not represent the Monterey County Probation Department or identify themselves in any way that could be reasonably perceived as representing the Monterey County Probation Department in order to do any of the following, unless specifically authorized by the Chief Probation Officer (Government Code § 3206; Government Code § 3302):

- (a) Endorse, support, oppose or contradict any political campaign or initiative.
- (b) Endorse, support, oppose or contradict any social issue, cause or religion.
- (c) Endorse, support or oppose any product, service, company or other commercial entity.
- (d) Appear in any commercial, social or nonprofit publication or any motion picture, film, video, public broadcast or on any website.

Additionally, when it can reasonably be construed that an employee, acting in his/her individual capacity or through an outside group or organization (e.g., bargaining group or officer associations), is affiliated with this department, the employee shall give a specific disclaiming statement that any such speech or expression is not representative of the Monterey County Probation Department.

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Employees retain their right to vote as they choose, to support candidates of their choice and to express their opinions as private citizens, including as authorized members of a recognized bargaining unit or officer associations, on political subjects and candidates at all times while off-duty.

However, employees may not use their official authority or influence to interfere with or affect the result of an election or a nomination for office. Employees are also prohibited from directly or indirectly using their official authority to coerce, command or advise another employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes (5 USC § 1502).

757.5 PRIVACY EXPECTATION

Employees forfeit any expectation of privacy with regard to e-mails, texts, or anything published or maintained through file-sharing software or any internet site (e.g., Facebook) that is accessed, transmitted, received, or reviewed on any department technology system (see the Information Technology Use Policy for additional guidance).

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

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Attachments

Hate Crime Checklist.pdf

**Commission on Peace Officer Standards and
Training Hate Crimes Model Policy 2019.pdf**

Statutes and Legal Requirements.pdf

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