

# Tehama County Probation Department

Tehama County PO Policy Manual

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## **PREFACE**

As a probation officer you have a unique assignment and responsibility. First and foremost you are an agent of the Court. You are deputized by the authority invested in me as the Chief Probation Officer for the County of Tehama. You are a peace officer and as such are held to a higher standard. As an appointed peace officer, you have taken an oath to support, defend, and bear true faith and allegiance to both the constitution of the United States and the constitution of the State of California. You wear a badge and represent not only Tehama County but all law enforcement officers. I expect you to represent Tehama County and all law enforcement with honor and integrity.

This policy manual is designed to provide guidance and direction to the members of the Tehama County Probation Department. It should be used with sound reason, judgment and discretion in our efforts to provide the highest quality service to the community we serve.

Richard A. Muench, Chief Probation Officer

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## **LAW ENFORCEMENT CODE OF ETHICS**

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against violence or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

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

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

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

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

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## **MISSION STATEMENT**

Improve public safety and the quality of life in Tehama County through offender compliance and accountability.

### **Vision**

Fewer crimes, fewer victims.

### **Ensure**

- Offender compliance with Court orders
- Provide accurate, timely probation recommendations
- Maintain a safe and secure Juvenile Detention Facility
- Provide evidence based programs that provide opportunities for offenders to become productive law abiding members of the community

### **Guiding Principals**

- Public Safety First
- Fiscal Accountability
- Transparency
- Integrity
- Fairness & Equity
- "Do the right thing"

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## **PREFACE TITLE**

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

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## Law Enforcement Authority

### 100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Tehama County Probation Department to perform their functions based on established legal authority.

### 100.2 PEACE OFFICER POWERS

Sworn members of this department are authorized to exercise peace officer powers pursuant to applicable state law (Penal Code § 830.5 et seq.).

#### 100.2.1 OREGON AUTHORITY

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

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

Tehama County deputy probation officers have no authority to enforce Oregon traffic or motor vehicle laws.

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

#### 100.2.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE TEHAMA COUNTY PROBATION DEPARTMENT

On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot or fresh pursuit, while following up on crimes committed with the County or while assisting another agency. On-duty deputy probation officers who discover criminal activity outside the jurisdiction of the County should, when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

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When a deputy probation officer makes an out-of-county arrest pursuant to a warrant, the deputy probation officer shall inform the arrestee of the right to be taken before a magistrate in that county (Penal Code § 821; Penal Code § 822).

### 100.2.3 ARREST AUTHORITY WITHIN THE JURISDICTION OF THE TEHAMA COUNTY PROBATION DEPARTMENT

The arrest authority within the State of California is as follows (Penal Code § 830.5):

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

### 100.3 POLICY

It is the policy of the Tehama County Probation Department to limit its members to only exercise the authority granted to them by law.

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

### 100.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

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

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

Peace officers of another state who enter the State of California in fresh pursuit to arrest a person who has committed a felony in the other state have the same authority to arrest and hold in custody such person as peace officers of this state have to arrest and hold a person in custody (Penal Code § 852.2).

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### **100.5 CONSTITUTIONAL REQUIREMENTS**

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

## Countywide Policy Statements

### 101.1 PURPOSE AND SCOPE

The County of Tehama has established county wide policies and procedures that govern the operations of the Probation Department and the behaviors of its employees. The following policies and procedures are incorporated in this Policy Manual

- #203, INTERNET AND E-MAIL USE: Effective date 10-01-2009
- #204, FRAUD AND DEBARMENT: Effective date 03-01-2012
- #208, HARASSMENT: Effective date 05-25-2010
- #309, Drug and Alcohol Abuse and Drug Testing Policy; Effective date 04-21-2015

## Oath of Office

### 102.1 PURPOSE AND SCOPE

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

### 102.2 POLICY

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

### 102.3 OATH OF OFFICE

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

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

### 102.4 MAINTENANCE OF RECORDS

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

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# Policy Manual

## 103.1 PURPOSE AND SCOPE

The manual of the Tehama 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.

## 103.2 POLICY

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

### 103.2.1 DISCLAIMER

The provisions contained in the Policy Manual are not intended to create an employment contract nor any employment rights or entitlements. The policies contained within this manual are for the internal use of the Tehama 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 Tehama County Probation Department reserves the right to revise any policy content, in whole or in part.

## 103.3 AUTHORITY

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

## 103.4 DEFINITIONS

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

**Adult** - Any person 18 years of age or older.

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

**CHP**- The California Highway Patrol.

**CFR** - Code of Federal Regulations.

**County** - The County of Tehama.

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

**Deputy probation officer (DPO)**- Applies to those employees, regardless of rank, who are sworn employees of the Tehama County Probation Department.

**Department/TCPD** - The Tehama 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 Tehama County Probation Department Policy Manual.

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

**Member** - Any person employed or appointed by the Tehama County Probation Department, including full-time sworn deputy probation officer, non-sworn employees, extra help sworn or non-sworn and volunteers.

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

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

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

**PRCS**- Postrelease community supervision.

**STC** - Standards and Training for Corrections

**Rank** - The title of the classification held by a Deputy Probation Officer.

**Shall or will** - Indicates a mandatory action.

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

**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., Deputy Probation Officer-in-charge, lead or senior worker, instructor) given responsibility for the direction of the work of others without regard to a formal job title, rank or compensation.

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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.

### **103.5 ISSUING THE POLICY MANUAL**

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

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

### **103.6 PERIODIC REVIEW OF THE POLICY MANUAL**

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

### **103.7 REVISIONS TO POLICIES**

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

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

Each Deputy Chief will ensure that members under his/her command 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 Supervisor, who will review the recommendations and forward them to the appropriate Deputy Chief.

## **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.



See attachment: [Department Organization Chart.pdf](#)

## 200.2 DIVISIONS

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

- Adult Division
- Juvenile Division
- Juvenile Detention Facility

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## *Organizational Structure and Responsibility*

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### 200.2.1 ADULT DIVISION

The Adult Division commanded by a Deputy Chief whose primary responsibility is to provide general management direction and control for that Division.

### 200.2.2 JUVENILE DIVISION

The Juvenile Division commanded by a Deputy Chief whose primary responsibility is to provide general management direction and control for that Division.

### 200.2.3 JUVENILE DETENTION FACILITY

The Juvenile Detention Facility is commanded by a Deputy Chief who primary responsibility is to provide general management direction and control for the Detention Facility.

## **200.3 COMMAND PROTOCOL**

### 200.3.1 SUCCESSION OF COMMAND

The Chief Probation Officer exercises command over all personnel in the Department. During planned absences the Chief Probation Officer will designate a Division Deputy Chief to serve as the acting Chief Probation Officer.

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

- (a) Adult Division Deputy Chief
- (b) Juvenile Division Deputy Chief
- (c) Juvenile Detention Facility Deputy Chief
- (d) Designated DPO IV

### 200.3.2 UNITY OF COMMAND

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

### 200.3.3 ORDERS

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

## Interim Directive

### 201.1 PURPOSE AND SCOPE

Interim 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. Interim Directives will immediately modify or change and supersede sections of this manual to which they pertain.

#### 201.1.1 INTERIM DIRECTIVE PROTOCOL

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

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

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

### 201.2 RESPONSIBILITIES

#### 201.2.1 EXECUTIVE COMMITTEE

The Executive Committee should review and approve revisions of the Policy Manual, which will incorporate changes originally made by an Interim Directive.

#### 201.2.2 CHIEF PROBATION OFFICER

The Chief Probation Officer shall approve all Interim Directives prior to issuance.

### 201.3 ACCEPTANCE OF INTERIM DIRECTIVES

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

## Emergency Management Plan

### **202.1 PURPOSE AND SCOPE**

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

### **202.2 ACTIVATING THE EMERGENCY PLAN**

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

#### **202.2.1 RECALL OF PERSONNEL**

In the event that the Emergency Management Plan is activated, all employees of the Tehama County Probation Department are subject to immediate recall. Employees may also be subject to recall during extraordinary circumstances as deemed necessary by the Chief Probation Officer or the authorized designee.

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

### **202.3 LOCATION OF THE PLAN**

The Emergency Management Plan is available through the Office Manager. All supervisors should familiarize themselves with the Emergency Management Plan. Each Deputy Chief should ensure that department personnel within their division are familiar with their roles if the plan is implemented.

### **202.4 UPDATING OF MANUALS**

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

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## Training Policy

### 203.1 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.

### 203.2 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 Standards and Training for Corrections (STC).

### 203.3 OBJECTIVES

The objectives of the Training Program are to:

- (a) Enhance the level of law enforcement service to the public
- (b) Increase the technical expertise and overall effectiveness of our personnel
- (c) Provide for continued professional development of department personnel

### 203.4 TRAINING PLAN

A training plan will be developed and maintained by the Training Coordinator. It is the responsibility of the Training Coordinator to maintain, review, and update the training plan on an annual basis. The plan will address the following areas:

- Legislative Changes
- Mandated Training
- Critical Issues Training
- Officer Safety

### 203.5 TRAINING NEEDS ASSESSMENT

The Training Coordinator will conduct an annual training-needs assessment of the Department. The needs assessment will be reviewed by staff. Upon approval by the staff, the needs assessment will form the basis for the training plan for the fiscal year.

### 203.6 TRAINING COMMITTEE

The Training Coordinator shall establish a Training Committee, which will serve to assist with identifying training needs for the Department.

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## *Training Policy*

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The Training Committee shall be comprised of at least three members, with the senior ranking member of the committee acting as the chairperson. Members should be selected based on their abilities at post-incident evaluation and at assessing related training needs. The Training Coordinator may remove or replace members of the committee at his/her discretion.

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

- (a) Any incident involving the death or serious injury of an employee.
- (b) Incidents involving a high risk of death, serious injury or civil liability.
- (c) Incidents identified by a supervisor as appropriate to review to identify possible training needs.

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

The Training Coordinator will consider the recommendations of the committee and determine what training should be addressed, taking into consideration the mission of the Department and available resources.

### **203.7 TRAINING PROCEDURES**

- (a) All employees assigned to attend training shall attend as scheduled unless previously excused by their unit 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 unit 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 unit supervisor.
  - 3. Make arrangements through his/her unit supervisor and the Training Coordinator to attend the required training on an alternate date.

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## **Administrative Communications**

### **204.1 PURPOSE AND SCOPE**

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

### **204.2 MEMORANDUMS**

Memorandums may be issued periodically by the Chief Probation Officer to announce and document all promotions, transfers, hiring of new personnel, separations, personnel and group commendations, or other changes in status.

### **204.3 CORRESPONDENCE**

All external correspondence shall be on Department letterhead and shall only be used for official business.

### **204.4 SURVEYS**

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

## Retiree Concealed Firearms

### 205.1 PURPOSE AND SCOPE

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

### 205.2 POLICY

It is the policy of the Tehama County Probation Department to provide identification cards to qualified former or retired deputy probation officers as provided in this policy. The retiree will be provided with and sign for a copy of this policy.

### 205.3 LEOSA

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

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

#### 205.3.1 LEOSA IDENTIFICATION CARD FORMAT

The LEOSA identification card should contain a photograph of the former deputy probation officer and identify him/her as having been employed as a deputy probation officer .

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

#### 205.3.2 AUTHORIZATION

Any qualified former law enforcement officer, including a former deputy probation officer of this department, may carry a concealed firearm under 18 USC § 926C when he/she is:

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

### **205.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE**

Any full-time sworn deputy probation 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 deputy probation officer who retires in lieu of termination.
- (b) No CCW Approved endorsement shall be issued to any deputy probation officer retiring because of a psychological disability (Penal Code § 26305).

#### **205.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT**

The identification card issued to any qualified and honorably retired deputy probation 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."

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### **205.5 FORMER DEPUTY PROBATION OFFICER RESPONSIBILITIES**

A former deputy probation officer with a card issued under this policy shall immediately notify the Chief Probation Officer 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.

#### **205.5.1 RESPONSIBILITIES UNDER LEOSA**

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

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

#### **205.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT**

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

- (a) Qualify annually with the authorized firearm at a course approved by this department at the retired deputy probation 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.

### **205.6 DENIAL, SUSPENSION OR REVOCATION OF A LEOSA IDENTIFICATION CARD**

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

### **205.7 DENIAL, SUSPENSION OR REVOCATION OF A CALIFORNIA CCW ENDORSEMENT CARD**

A CCW endorsement under Penal Code § 25470 for any deputy probation 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 a Deputy Chief when the conduct of a retired peace officer compromises public safety.

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- (a) In the event that a CCW endorsement is initially denied, the retired deputy probation 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 their Deputy Chief as soon as practicable. The Deputy Chief should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.
  - 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 Deputy Chief should document the investigation, the actions taken and, if applicable, any notification made to the retiree. A memo shall 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.

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- (c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.
- 4. In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Deputy Chief 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 Deputy Chief may request that a law enforcement officer from that agency act as the agent of the Department to deliver the written notification.

### **205.8 FIREARM QUALIFICATIONS**

The Rangemaster may provide former deputy probation 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.

#### 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).

**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.

### 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. Deputy probation officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Deputy probation 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 deputy probation officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

#### 300.2.1 DUTY TO INTERCEDE

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

### 300.3 USE OF FORCE

Deputy Probation 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 deputy probation officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

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The reasonableness of force will be judged from the perspective of a reasonable deputy probation officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that deputy probation 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 a deputy probation officer might encounter, deputy probation officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which deputy probation officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by the [Department/Office]. Deputy Probation 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 a deputy probation 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 a deputy probation 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 a deputy probation officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

- (a) The apparent immediacy and severity of the threat to deputy probation officers or others (Penal Code § 835a).
- (b) The conduct of the individual being confronted, as reasonably perceived by the deputy probation officer at the time.
- (c) Deputy Probation Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputy probation officers available vs. subjects).
- (d) The conduct of the involved deputy probation officer (Penal Code § 835a).

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- (e) The effects of 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 deputy probation 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.
- (l) Training and experience of the deputy probation officer.
- (m) Potential for injury to deputy probation officers, suspects, and others.
- (n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the deputy probation 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 deputy probation 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. Deputy Probation Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Deputy Probation 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 deputy probation officer.
- (c) Whether the person has been given sufficient opportunity to comply.

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

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#### 300.3.4 USE OF FORCE TO SEIZE EVIDENCE

In general, deputy probation officers may use reasonable force to lawfully seize evidence and to prevent the destruction of evidence. However, deputy probation officers are discouraged from using force solely to prevent a person from swallowing evidence or contraband. In the instance when force is used, deputy probation 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. Deputy Probation Officers are encouraged to use techniques and methods taught by the Tehama County Probation Department for this specific purpose.

#### 300.4 DEADLY FORCE APPLICATIONS

If an objectively reasonable deputy probation officer would consider it safe and feasible to do so under the totality of the circumstances, deputy probation officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. The use of deadly force is only justified in the following circumstances (Penal Code § 835a):

- (a) A deputy probation 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 deputy probation officer or another person.
- (b) A deputy probation 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 deputy probation officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the deputy probation officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the deputy probation officer has objectively reasonable grounds to believe the person is aware of those facts.

Deputy Probation Officers shall not use deadly force against a person based on the danger that person poses to him/herself, if an objectively reasonable deputy probation officer would believe the person does not pose an imminent threat of death or serious bodily injury to the deputy probation 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 deputy probation 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 deputy probation officer or another person. A deputy probation 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. Deputy probation officers should move out of the path of an approaching vehicle instead of discharging their firearm at the vehicle or any of its occupants. A deputy probation officer should only discharge a firearm at a moving vehicle or its occupants when the deputy probation officer reasonably believes there are no other reasonable

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means available to avert the threat of the vehicle, or if deadly force other than the vehicle is directed at the deputy probation officer or others.

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

### **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 deputy probation 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**

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

- (a) The application caused a visible injury.
- (b) The application would lead a reasonable deputy probation 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 oleoresin capsicum (OC) spray.
- (g) Any application of a restraint device other than handcuffs, shackles or belly chains.
- (h) The individual subjected to the force was rendered unconscious.
- (i) An individual was struck or kicked.
- (j) An individual alleges any of the above has occurred.

#### **300.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE**

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

### **300.6 MEDICAL CONSIDERATION**

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

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Based upon the deputy probation 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 deputy probation officer and/or medical personnel. If a recording is made of the contact or an interview with the individual, any refusal should be included in the recording, if possible.

The on-scene supervisor, or if not available, the primary handling deputy probation 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 deputy probation 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 deputy probation officers to be brought under control, may be at an increased risk of sudden death. Incidents involving these persons should be considered medical emergencies. Deputy probation 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**

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

- (a) Obtain the basic facts from the involved deputy probation 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

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injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.

- (e) Identify any witnesses not already included in related reports.
- (f) Review and approve all related reports.
- (g) Determine if there is any indication that the subject may pursue civil litigation.
  - 1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.
- (h) Evaluate the circumstances surrounding the incident and thoroughly document finding in the Supervisor's Use of Report form.

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 DEPUTY CHIEF'S RESPONSIBILITY**

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

#### **300.8 TRAINING**

Deputy probation officers will receive periodic training on this policy and demonstrate their knowledge and understanding.

#### **300.9 USE OF FORCE ANALYSIS**

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

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

## Use of Force Review Boards

### 301.1 PURPOSE AND SCOPE

This policy establishes a process for the Tehama 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.

### 301.2 POLICY

The Tehama 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.

### 301.3 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.

### 301.4 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.

It will be the responsibility of the Deputy Chief or supervisor of the involved employee to notify the Chief Probation Officer of any incidents requiring board review. The involved employee's Deputy Chief or supervisor will also ensure that all relevant reports, documents and materials are available for consideration and review by the board.

#### 301.4.1 COMPOSITION OF THE BOARD

The Chief Probation Officer may select five Use of Force Review Board members from the following, as appropriate:

- Representatives of each division
- The Deputy Chief in the involved member's chain of command

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- Training Coordinator
- Non-administrative supervisor
- A peer member
- A sworn peace officer from an outside law enforcement agency
- Department instructor for the type of weapon, device or technique used

Absent direction from the Chief Probation Officer, the senior ranking command representative who is not in the same division as the involved employee will serve as chairperson.

### 301.4.2 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 deputy probation 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 deputy probation officer at the time shall neither justify nor call into question the deputy probation 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 § 1020, 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, training reviews to consider whether training should be developed or

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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 Deputy Chief for review and appropriate 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

### 302.1 PURPOSE AND SCOPE

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

### 302.2 POLICY

The Tehama 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.

### 302.3 USE OF RESTRAINTS

Only members who have successfully completed Tehama 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, deputy probation 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.

#### 302.3.1 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 deputy probation officers and others. When deciding whether to remove restraints from a detainee, deputy probation officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

#### 302.3.2 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 deputy probation 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, deputy probation officers, or others (Penal Code § 3407; Penal Code § 6030).

#### **302.3.3 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 deputy probation officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the deputy probation officer, or damage property.

#### **302.3.4 NOTIFICATIONS**

Whenever a deputy probation officer transports a person with the use of restraints other than handcuffs, the deputy probation 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 deputy probation 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.

#### **302.4 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 probation department. Deputy Probation Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, deputy probation 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, deputy probation 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.

#### **302.5 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.

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Spit hoods may be placed upon persons in custody when the deputy probation 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.

Deputy Probation 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. Deputy Probation Officers should provide assistance during the movement of a restrained person due to the potential for impairing or distorting that person's vision. Deputy Probation 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.

### **302.6 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.

### **302.7 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/Office] shall be used.

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

- (a) Whether the deputy probation 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 deputy probation officer while handcuffed, kicking at objects or deputy probation officers).
- (c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

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### 302.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

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

- (a) If practicable, deputy probation 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.
- (b) Once applied, absent a medical or other emergency, restraints should remain in place until the deputy probation 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 a deputy probation officer while in the leg restraint. The deputy probation officer should ensure that the person does not roll onto and remain on his/her stomach.
- (e) The deputy probation 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 a deputy probation officer when requested by medical personnel. The transporting deputy probation officer should describe to medical personnel any unusual behaviors or other circumstances the deputy probation officer reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

### 302.8 REQUIRED DOCUMENTATION

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

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

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

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

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### **302.9 TRAINING**

Subject to available resources, the Training Coordinator should ensure that deputy probation 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/Office].
- (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**

### **303.1 PURPOSE AND SCOPE**

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

### **303.2 POLICY**

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

### **303.3 ISSUING, CARRYING AND USING CONTROL DEVICES**

Control devices described in this policy may be carried and used by members of this department while on duty and only if the device has been issued by the Department or approved by the Chief Probation Officer. Control devices issued by this department may not be carried off duty.

Only deputy probation 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, Deputy Probation Officers should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

### **303.4 RESPONSIBILITIES**

#### **303.4.1 CHIEF PROBATION OFFICER RESPONSIBILITIES**

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

#### **303.4.2 RANGEMASTER RESPONSIBILITIES**

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

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

#### **303.4.3 USER RESPONSIBILITIES**

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

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

### **303.5 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.

#### **303.5.1 OC SPRAY**

Personnel carrying OC spray should carry the device in its holster on the equipment belt or tactical vest.

#### **303.5.2 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.

### **303.6 POST-APPLICATION NOTICE**

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

### **303.7 TRAINING FOR CONTROL DEVICES**

The Training Coordinator 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 deputy probation officer's training file.
- (c) Deputy probation 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 a deputy probation officer cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the deputy probation officer will be restricted from carrying the control device and may be subject to discipline.

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### **303.8 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.

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## Conducted Energy Device

### 304.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of TASER devices.

### 304.2 POLICY

The TASER® device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to deputy probation officers and suspects.

### 304.3 ISSUANCE AND CARRYING TASER DEVICES

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

TASER devices can be checked out from a supervisor for use while on duty during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department's inventory.

Deputy probation officers shall only use the TASER device and cartridges that have been issued by the Department. Deputy probation officers who have been issued the TASER device shall wear the device in an approved holster on their person.

Members carrying the TASER device should perform a spark test on the unit prior to every shift.

Deputy probation officers shall carry the TASER device in a weak-side holster on the side opposite the duty weapon even if a firearm is not worn.

- (a) All TASER devices shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, deputy probation officers should carry two or more cartridges on their person when carrying the TASER device.
- (c) Deputy probation officers shall be responsible for ensuring that their issued TASER device is properly maintained and in good working order.
- (d) Deputy probation officers should not hold both a firearm and the TASER device at the same time.

### 304.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER device should precede its application, unless it would otherwise endanger the safety of deputy probation officers or when it is not practicable due to the circumstances. The purpose of the warning is to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.

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- (b) Provide other deputy probation officers and individuals with a warning that the TASER device may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with a deputy probation officer's lawful orders and it appears both reasonable and feasible under the circumstances, the deputy probation officer may, but is not required to, display the electrical arc, or the laser in a further attempt to gain compliance prior to the application of the TASER device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

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

### **304.5 USE OF THE TASER DEVICE**

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

#### **304.5.1 APPLICATION OF THE TASER DEVICE**

The TASER device may be used in any of the following circumstances, when the circumstances perceived by the deputy probation officer at the time indicate that such application is reasonably necessary to control a person:

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm deputy probation officers, him/herself or others.

Mere flight from a pursuing deputy probation officer, without other known circumstances or factors, is not good cause for the use of the TASER device to apprehend an individual.

#### **304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS**

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

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.
- (c) Individuals with obviously low body mass.

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

Because the application of the TASER device in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit, or as a distraction technique to gain separation between deputy probation officers and the subject, thereby giving deputy probation officers time and distance to consider other force options or actions.

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

### 304.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the deputy probation officer to limit the application of the TASER device probes to a precise target area, deputy probation officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

### 304.5.4 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Deputy probation officers should apply the TASER device for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the TASER device against a single individual are generally not recommended and should be avoided unless the deputy probation officer reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the TASER device appears to be ineffective in gaining control of an individual, the deputy probation officer should consider certain factors before additional applications of the TASER device, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

Deputy probation officers should generally not intentionally apply more than one TASER device at a time against a single subject.

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### 304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Deputy probation officers shall notify a supervisor of all TASER device discharges. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

### 304.5.6 DANGEROUS ANIMALS

The TASER device may be deployed against an animal as part of a plan to deal with a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective.

### 304.5.7 TASER® CAM™

The TASER CAM is activated any time the safety is in the off position. The safety should be in the safe position unless the deputy probation officer intends to use the device. Because the TASER CAM memory is limited, the video and audio data should be downloaded frequently and retained as required by the department records retention schedule.

### 304.5.8 OFF-DUTY CONSIDERATIONS

Deputy probation officers are not authorized to carry department TASER devices while off-duty.

Deputy probation officers shall ensure that TASER devices are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

## **304.6 DOCUMENTATION**

Deputy probation officers shall document all TASER device discharges in the related arrest/crime report. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges will also be documented as directed by a supervisor.

### 304.6.1 REPORTS

The deputy probation officer should include the following in the arrest/crime report:

- (a) Identification of all personnel firing TASER devices
- (b) Identification of all witnesses
- (c) Whether the subject sustained any injuries
- (d) Whether medical care provided to the subject
- (e) Whether any deputy probation officer sustained any injuries
- (f) Observations of the subject's physical and physiological actions
- (g) Any known or suspected drug use, intoxication or other medical problems
- (h) Whether any display, laser or arc deterred a subject and gained compliance.

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- (i) The number of TASER device activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (j) The range at which the TASER device was used.
- (k) The type and mode used (probe or drive-stun)
- (l) Location of any probe impact.
- (m) Location of contact in drive-stun mode.
- (n) Description of where missed probes went.

The training coordinator should periodically analyze the reports to identify trends, including deterrence and effectiveness. The Training Coordinator should also conduct audits of data downloads and reconcile TASER device reports with recorded activations.

### **304.7 MEDICAL TREATMENT**

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

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

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

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another deputy probation officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting deputy probation officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the TASER device.

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### **304.8 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to all incidents where the TASER device was activated.

A supervisor should review each incident where a person has been exposed to an activation of the TASER device and complete a Supervisor's Use of Force Report form. The device's onboard memory should be downloaded through the data port by a supervisor or designated person and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

### **304.9 TRAINING**

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

Proficiency training for personnel who have been issued TASER devices should occur every year. A reassessment of a deputy probation officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Coordinator. All training and proficiency for TASER devices will be documented in the deputy probation officer's training file.

Command staff and supervisors should receive TASER device training as appropriate for the investigations they conduct and review.

Deputy probation officers who do not carry TASER devices should receive training that is sufficient to familiarize them with the device and with working with deputy probation officers who use the device.

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

Application of TASER devices during training could result in injury to personnel and should not be mandatory for certification.

The Training Coordinator should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- (d) Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- (e) Handcuffing a subject during the application of the TASER device and transitioning to other force options.

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- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the TASER device.

## Officer-Involved Shootings and Deaths

### 305.1 PURPOSE AND SCOPE

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

### 305.2 POLICY

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

### 305.3 TYPES OF INVESTIGATIONS

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

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

### 305.4 CONTROL OF INVESTIGATIONS

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

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

#### 305.4.1 CRIMINAL INVESTIGATION OF SUSPECT ACTIONS

The investigation of any possible criminal conduct by the suspect is controlled by the agency in whose jurisdiction the suspect's crime occurred. For example, the Red Bluff Police Department would control the investigation if the suspect's crime occurred in the City of Red Bluff .

If multiple crimes have been committed in multiple jurisdictions, identification of the agency that will control the investigation may be reached in the same way as with any other crime.

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### 305.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved officer's conduct during the incident will be determined by the jurisdiction in which the incident occurred. When a deputy probation officer from this department is involved, the criminal investigation will be handled according to the Criminal Investigation section of this policy.

### 305.4.3 ADMINISTRATIVE AND CIVIL INVESTIGATION

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

## **305.5 INVESTIGATION PROCESS**

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

### 305.5.1 UNINVOLVED DEPUTY PROBATION OFFICER RESPONSIBILITIES

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

### 305.5.2 DEPUTY CHIEF RESPONSIBILITIES

Upon learning of an officer-involved shooting or death, the Deputy Chief shall be responsible for coordinating all aspects of the incident until he/she is relieved by the Chief Probation Officer or other appropriate authority.

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

### 305.5.3 NOTIFICATIONS

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

- Chief Probation Officer
- District Attorney OIS rollout team
- Coroner (if necessary)
- Deputy probation officer's representative (if requested)

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

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### 305.5.4 SUPERVISOR RESPONSIBILITIES

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

- (a) Attempt to obtain a brief overview of the situation from any uninvolved deputy probation officers.
  - 1. In the event that there are no uninvolved deputy probation officers who can supply adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved deputy probation officer.
- (b) If necessary, the supervisor may administratively order any TCPD deputy probation 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 deputy probation officer to provide any information other than public safety information.
- (c) Provide all available information to the Deputy Chief and Dispatch. If feasible, sensitive information should be communicated over secure networks.
- (d) Take command of and secure the incident scene with additional TCPD members or allied law enforcement officers until properly relieved by another supervisor, Deputy Chief or other assigned personnel.
- (e) As soon as practicable, ensure that involved TCPD deputy probation officers are transported (separately, if feasible) to a suitable location for further direction.
  - 1. Each involved TCPD deputy probation officer should be given an administrative order not to discuss the incident with other involved officers or TCPD members pending further direction from a supervisor.
  - 2. When an involved deputy probation 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.

### 305.5.5 INVOLVED OFFICERS

The following shall be considered for the involved officer:

- (a) Any request for legal or union representation will be accommodated.
  - 1. Involved TCPD deputy probation 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-TCPD officers should be referred to their employing agency.
- (b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.

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- (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 TCPD deputy probation officer. A licensed psychotherapist may also be provided to any other affected TCPD members, upon request.
  - 1. Interviews with a licensed psychotherapist will be considered privileged.
  - 2. An interview or session with a licensed psychotherapist may take place prior to the member providing a formal interview or report. However, involved members shall not be permitted to consult or meet collectively or in a group with a licensed psychotherapist prior to providing a formal interview or report.
  - 3. A separate fitness-for-duty exam may also be required (see the Fitness for Duty Policy).
- (e) Peer counselors are cautioned against discussing the facts of any incident with an involved or witness officer (Government Code § 8669.4).

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

Each involved TCPD deputy probation officer shall be given reasonable paid administrative leave following an officer-involved shooting or death. It shall be the responsibility of the Deputy Chief Probation Officer to make schedule adjustments to accommodate such leave.

### **305.6 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) TCPD supervisors and assigned IA investigator should not participate directly in any voluntary interview of TCPD deputy probation 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 his/her choosing or an attorney prior to speaking with criminal investigators (Government Code § 3303(i)). However, in order to maintain the integrity of each involved deputy probation officer's statement, involved deputy probation officers shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.

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- (c) If any involved deputy probation 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 deputy probation officer to schedule an alternate time for the interview.
- (d) Any voluntary statement provided by an involved deputy probation 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.

### **305.6.1 WITNESS IDENTIFICATION AND INTERVIEWS**

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

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

### **305.7 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 TCPD deputy probation officers to determine conformance with department policy. The investigation will be conducted under the supervision of the assigned Internal Affairs Investigator and will be considered a confidential 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 deputy probation 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 deputy probation officer, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.
- (b) If any deputy probation 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 deputy probation officer.
  - 1. If a further interview of the deputy probation 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 deputy probation 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 deputy probation 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 deputy probation officer's physical and psychological needs have been addressed before commencing the interview.
  - 2. If requested, the deputy probation 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 deputy probation officer's statement, involved deputy probation 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 deputy probation officer may also record the interview (Government Code § 3303(g)).
  - 4. The deputy probation officer shall be informed of the nature of the investigation. If a deputy probation 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 deputy probation 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 Investigator in charge 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.

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7. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

### **305.8 AUDIO AND VIDEO RECORDINGS**

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

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

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

### **305.9 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.

### **305.10 DEBRIEFING**

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

#### **305.10.1 CRITICAL INCIDENT/STRESS DEBRIEFING**

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

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

Attendance at the debriefing shall only include those members of the Department directly involved in the incident, which can include support personnel. Family or other support personnel may attend with the concurrence of those involved in the incident. The debriefing shall be closed to the public and should be closed to all other members of the Department, including supervisory and Internal Affairs Investigator personnel.

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### 305.10.2 TACTICAL DEBRIEFING

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

### **305.11 MEDIA RELATIONS**

Any media release shall be prepared with input and concurrence from the Chief Probation Officer.

The Department shall not subject any involved deputy probation officer to visits by the media (Government Code § 3303(e)). No involved deputy probation officer shall make any comment to the media unless he/she is authorized by the Chief Probation Officer. 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

### 306.1 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.

### 306.1 AUTHORIZATION

Members of this department who are classified as peace officers pursuant to Penal Code 830.5 may carry and utilize firearms while on duty only if individually authorized in writing by the Chief Probation Officer. Without authorization no member of this department, while on duty, shall carry a firearm on his/her person, or have a firearm in his/her possession in the office, county vehicle or any other job location, unless authorized in accordance with this policy. Deputy probation officers who are authorized to carry firearms on duty may carry their firearm while en route to and from work. The carrying of firearms to and from work is strictly a transport function and is not to be construed as being on duty. Deputy probation officers shall not carry department firearms when off duty unless specifically authorized in writing by the Chief Probation Officer.

### 306.2 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Members shall only use firearms that are issued or approved by the Department and have been thoroughly inspected by the Rangemaster. Except in an emergency or as directed by the Chief Probation Officer, no firearm shall be carried by a member who has not qualified with that firearm.

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

#### 306.2.1 HANDGUN

Members are authorized to carry only firearms issued or approved by the Chief Probation Officer.

- (a) No authorized duty firearm may be altered in any manner without authorization of the Rangemaster.
- (b) All safety devices on the firearm provided by the manufacturer will be intact and functioning at all times.
- (c) All firearms carried on duty will have an annual inspection by the Rangemaster or gunsmith/armorer authorized by the Chief Probation Officer.

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- (d) The carrying of a second or "back-up" firearm on duty is prohibited, unless expressly approved in writing by the Chief Probation Officer.

### 306.2.2 SHOTGUNS

The authorized department-issued shotgun is the Remington 870

When not deployed, the shotgun shall be properly secured in the designated firearms locker with the action open and the magazine tube empty, or in a locking weapons rack in the field vehicle with the magazine loaded, the action closed on an empty chamber, the trigger pulled to release the hammer and the safety in the safe position. Shotguns shall not be stored overnight in the field vehicle without the authorization of the Chief Probation Officer.

### 306.2.3 FIELD RIFLES

The authorized department-issued field rifle is the Ruger Mini 14.

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

- (a) Situation where the member reasonably anticipates an armed encounter.
- (b) When a member is faced with a situation that may require accurate and effective fire at long range.
- (c) Situations where a member reasonably expects the need to meet or exceed a suspect's firepower.
- (d) When a member reasonably believes that a suspect may be wearing body armor.
- (e) When authorized or requested by a supervisor.
- (f) When needed to euthanize an animal

When not deployed, the field rifle shall be properly secured in the designated firearms locker or in a locking weapons rack in the field vehicle with the chamber empty, magazine loaded and inserted into the magazine well, the bolt forward with the dust cover closed, the trigger pulled to release the hammer and the selector lever in the fire position (selector lever cannot be in the safe position with the hammer released). Field rifles shall not be stored overnight in the field vehicle without the authorization of the Chief Probation Officer.

### 306.2.4 PERSONALLY OWNED DUTY FIREARMS

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

- (a) The firearm shall be in good working order
- (b) The firearm shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary to include the annual firearms inspection

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- (c) Prior to carrying the firearm, members shall qualify under range supervision and thereafter shall qualify in accordance with the department qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.
- (d) Members shall provide written notice of make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.

### 306.2.5 AMMUNITION

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

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

### 306.3 FIREARMS QUALIFICATIONS

All sworn personnel authorized to carry a firearm on duty are required to qualify quarterly with their duty firearm on an approved range course. The Rangemaster shall keep accurate records of quarterly qualifications, repairs, maintenance, training and any other documentation as directed by the Training Coordinator. In addition to regular qualification schedules, the Rangemaster shall be responsible for providing all armed personnel with annual practical training designed to simulate field situations. At least annually, all personnel carrying a firearm will receive training on the department Use of Force policy§ 300 and demonstrate their knowledge and understanding.

#### 306.3.1 NON QUALIFICATION

If any deputy probation officer is unable to attend a qualification shoot for any reason, including injury, illness, duty status, or scheduling conflict, that deputy probation officer shall submit a memorandum to his or her immediate supervisor as soon as practical.

Members who repeatedly fail to qualify may have their authorization to carry on duty suspended or revoked until such time as they are reinstated by the Chief Probation Officer.

Sworn members who fail to qualify on their first shooting attempt shall be provided remedial training until proficiency is demonstrated and will be subject to the following requirements:

- (a) Additional range assignments may be required until consistent weapon proficiency is demonstrated
- (b) Members shall be given credit for a range qualification after remedial training and a qualifying score is obtained
- (c) No range credit will be given for the following
  1. Unauthorized range make-up

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### 2. Failure to qualify after remedial training

#### 306.3.2 HOLSTERS

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

#### 306.3.3 TACTICAL LIGHTS

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

### **306.4 SAFE HANDLING, INSPECTION AND STORAGE**

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

- (a) Members shall not unnecessarily display or handle any firearm.
- (b) Members shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the Rangemaster. Members shall not dry fire or practice quick draws except under Rangemaster supervision.
- (c) Members shall not clean, repair, load or unload a firearm anywhere or in any manner where there is reason to believe an unintentional discharge could cause injury to others.
- (d) Shotguns or rifles removed from vehicles or the designated firearms storage room shall be loaded and unloaded in the parking lot and outside of the vehicle while pointed in a safe direction.
- (e) Members shall not place or store any firearm on department premises except where the place of storage is locked. Firearms shall not be stored on department premises overnight except in the designated storage location.
- (f) No one shall carry firearms into the secure area of the Juvenile Detention Facility or the jail section or any part thereof when securing or processing an arrestee, but shall place all firearms in a secured location.
- (g) Any firearm authorized by the department to be carried on-duty that is determined by a member to be malfunctioning or in need of service or repair shall not be carried. It shall be promptly presented to the department Rangemaster for inspection and repair. Any firearm deemed in need of repair or service by the Rangemaster will be immediately removed from service until such time as the firearm is deemed serviceable by the Rangemaster.
- (h) All repairs and/or modifications of department issued firearms not performed by the Rangemaster must be approved in advance by the Rangemaster and accomplished by a department approved gunsmith/armorer.

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- (i) Any repairs or modifications to the deputy probation officer's personally owned duty firearm shall be done at members expense and must be approved by the Rangemaster.

### 306.4.1 STORAGE AT HOME

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

### 306.4.2 ALCOHOL AND DRUGS

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

## 306.5 FIREARM DISCHARGE

Except during training , any member who discharges a firearm intentionally or unintentionally, on- or off-duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If the discharge results in injury or death to another person, additional statements and reports shall be made in accordance with the Officer-Involved Shootings and Deaths Policy. If a firearm was discharged as a use of force, the involved member shall adhere to the additional reporting requirements set forth in the Use of Force Policy §300.

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 Deputy Chief 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.

### 306.5.1 WARNING AND OTHER SHOTS

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

### 306.5.2 DESTRUCTION OF ANIMALS

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

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

### **306.5.3 INJURED ANIMALS**

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

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

### **306.6 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 Coordinator 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 Coordinator documentation of the training courses provided. Documentation shall include who provided 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 accurate records of all training shoots, qualifications, repairs, maintenance or other records as directed by the Training Coordinator.

### **306.7 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 deputy probation

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

- (a) Deputy Probation Officers wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have the firearm accessible, as determined by the Department based on the law and published TSA rules.
- (b) Deputy Probation Officers must carry their Tehama County Probation Department identification card, bearing the deputy probation officer's name, a full-face photograph, identification number, the deputy probation 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 deputy probation officer should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).
- (c) The Tehama County Probation Department must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the deputy probation officer's travel. If approved, TSA will send the Tehama County Probation Department an NLETS message containing a unique alphanumeric identifier. The deputy probation officer must present the message on the day of travel to airport personnel as authorization to travel while armed.
- (d) An official letter signed by the Chief Probation Officer authorizing armed travel may also accompany the deputy probation officer. The letter should outline the deputy probation officer's need to fly armed, detail his/her itinerary, and include that the deputy probation officer has completed the mandatory TSA training for a law enforcement officer flying while armed.
- (e) Deputy Probation Officers must have completed the mandated TSA security training covering deputy probation officers flying while armed. The training shall be given by the department-appointed instructor.
- (f) It is the deputy probation officer's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.
- (g) Any deputy probation officer flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.
- (h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The deputy probation officer must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.
- (i) Deputy Probation Officers should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.
- (j) Deputy Probation Officers shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

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### **306.9 AUTHORIZATION TO PRACTICE SHOOT OFF DUTY USING DEPARTMENT ISSUED FIREARM**

A department issued firearm may be used during off-duty hours range shooting. If an officer chooses to practice with their department issued firearm off-duty they assume all risk and liability for doing so.

Only department authorized ammunition, at the officer's personal expense, can be used in department issued weapons. The Range Master will maintain a list of approved ammunition. Under no circumstances will reloaded ammunition be used.

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## Vehicle Pursuits

### 307.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide deputy probation officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to reduce the potential for pursuit-related collisions. Vehicular pursuits require deputy probation officers to exhibit a high degree of common sense and sound judgment. Deputy probation officers must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing deputy probation officers.

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the potential risk to public safety created by vehicular pursuits, no deputy probation officer or supervisor shall be criticized or disciplined for deciding not to engage in a vehicular pursuit because of the risk involved. This includes circumstances where department policy would permit the initiation or continuation of the pursuit. It is recognized that vehicular pursuits are not always predictable and decisions made pursuant to this policy will be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit.

Deputy probation officers must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. Deputy probation officer's conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable deputy probation officer would do under the circumstances. An unreasonable individual's desire to apprehend a fleeing suspect at all costs has no place in professional law enforcement.

#### 307.1.1 VEHICLE PURSUIT DEFINED

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

### 307.2 DEPUTY PROBATION OFFICER RESPONSIBILITIES

It shall be the policy of this department that a vehicle pursuit shall be conducted only with red light and siren as required by Vehicle Code § 21055 for exemption from compliance with the rules of the road. The following policy is established to provide deputy probation officers with guidelines for driving with due regard and caution for the safety of all persons using the highway as required by Vehicle Code § 21056.

A deputy probation officer may not participate in a vehicle pursuit without first completing a department approved emergency vehicle operations course.

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### 307.2.1 WHEN TO INITIATE A PURSUIT

Deputy probation officers may only engage in a motor vehicle pursuit in the event of an extreme emergency (i.e. when the fleeing motor vehicle is known to represent an immediate and direct threat to life or serious bodily injury). Whenever an allied agency is available to take over the pursuit, the deputy probation officer shall withdraw from the active pursuit and will serve in a support function.

The following factors individually and collectively shall be considered in deciding whether to initiate a pursuit:

- (a) Seriousness of the known or reasonably suspected crime and its relationship to community safety.
- (b) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to deputy probation officers, innocent motorists and others.
- (c) Apparent nature of the fleeing suspects (e.g., whether the suspects represent a serious threat to public safety).
- (d) The identity of the suspects has been verified and there is comparatively minimal risk in allowing the suspects to be apprehended at a later time.
- (e) Safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic and the speed of the pursuit relative to these factors.
- (f) Pursuing deputy probation officers familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing deputy probation officer under the conditions of the pursuit.
- (g) Weather, traffic and road conditions that substantially increase the danger of the pursuit beyond the worth of apprehending the suspect.
- (h) Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
- (i) Vehicle speeds.
- (j) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
- (k) Availability of other resources such as helicopter assistance.
- (l) The probation unit is carrying passengers other than sworn officers. Pursuits should not be undertaken with a prisoner in the probation vehicle.

### 307.2.2 WHEN TO TERMINATE A PURSUIT

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the deputy probation officer or supervisor during the pursuit

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indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect's escape.

The factors listed in **WHEN TO INITIATE A PURSUIT** of this policy are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Deputy probation officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists and themselves when electing to continue a pursuit. In the context of this policy, the term "terminate" shall be construed to mean discontinue or to stop chasing the fleeing vehicle.

In addition to the factors listed in **WHEN TO INITIATE A PURSUIT** of this policy, the following factors should also be considered in deciding whether to terminate a pursuit:

- (a) Distance between the pursuing deputy probation officer and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.
- (b) Pursued vehicle's location is no longer definitely known.
- (c) Deputy probation officer's pursuit vehicle sustains any type of damage that renders it unsafe to drive.
- (d) Extended pursuits of violators for misdemeanors not involving violence or risk of serious harm (independent of the pursuit) are not sanctioned.
- (e) There are hazards to uninvolved bystanders or motorists.
- (f) If the identity of the offender is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit, deputy probation officers should strongly consider discontinuing the pursuit and apprehending the offender at a later time.
- (g) Pursuit is terminated by a supervisor.
- (h) Pursuit is terminated at the direction of allied agency.

### 307.2.3 SPEED LIMITS

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

Should high vehicle speeds be reached during a pursuit, deputy probation officers and supervisors shall also consider these factors when determining the reasonableness of the speed of the pursuit:

- (a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
- (b) Pursuit speeds have exceeded the driving ability of the deputy probation officer.

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- (c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

### **307.3 PURSUIT UNITS**

Pursuit units should be limited to three vehicles (two units and a supervisor); however, the number of units involved will vary with the circumstances. A deputy probation officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of law enforcement officers involved would be insufficient to safely arrest the suspects. All other deputy probation officers should stay out of the pursuit, but should remain alert to its progress and location. Any deputy probation officer who drops out of a pursuit may, with permission of a supervisor, proceed to the termination point at legal speeds, following the appropriate rules of the road.

#### **307.3.1 VEHICLES WITHOUT EMERGENCY EQUIPMENT**

Vehicles not equipped with red light and siren are generally prohibited from initiating or joining in any pursuit. Deputy probation officers in such vehicles, however, may become involved in emergency activities involving serious crimes or life threatening situations. Those deputy probation officers should terminate their involvement in any pursuit immediately upon arrival of a sufficient number of emergency police vehicles or any police helicopter. The exemptions provided by Vehicle Code § 21055 do not apply to deputy probation officers using vehicles without emergency equipment.

#### **307.3.2 PRIMARY UNIT RESPONSIBILITIES**

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the deputy probation officer initiating the pursuit is the apprehension of the suspects without unreasonable danger to him/herself or other persons.

Notify Dispatch that a vehicle pursuit has been initiated and as soon as practicable provide information including, but not limited to:

- (a) Reason for the pursuit.
- (b) Location and direction of travel.
- (c) Speed of the fleeing vehicle.
- (d) Description of the fleeing vehicle and license number, if known.
- (e) Number of known occupants.
- (f) The identity or description of the known occupants.
- (g) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.

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Unless relieved by a supervisor, secondary unit or allied agency assuming control of the pursuit , the deputy probation officer in the primary unit shall be responsible for the broadcasting of the progress of the pursuit. Unless practical circumstances indicate otherwise, and in order to concentrate on pursuit driving, the primary unit should relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit.

### 307.3.3 SECONDARY UNITS RESPONSIBILITIES

The second unit in the pursuit is responsible for the following:

- (a) The deputy probation officer in the secondary unit should immediately notify the dispatcher of entry into the pursuit.
- (b) Remain a safe distance behind the primary unit unless directed to assume the role of primary unit , or if the primary unit is unable to continue the pursuit.
- (c) The secondary unit should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise.

### 307.3.4 PURSUIT DRIVING TACTICS

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

- (a) Deputy probation officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Intersections can present increased risks, the following tactics should be considered:
  - 1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
  - 2. Pursuing units should exercise due caution when proceeding through controlled intersections.
- (c) As a general rule, deputy probation officers should not pursue a vehicle driving left of center (wrong way) on a freeway. In the event that the pursued vehicle does so, the following tactics should be considered:
  - 1. Requesting assistance from an air unit.

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2. Maintaining visual contact with the pursued vehicle by paralleling it on the correct side of the roadway.
  3. Requesting other units to observe exits available to the suspects.
- (d) Notifying the California Highway Patrol (CHP) and/or other jurisdictional agency if it appears that the pursuit may enter their jurisdiction.
- (e) Deputy probation officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit.

### 307.3.5 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT

There should be no paralleling of the pursuit route. If requested, deputy probation officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public.

Non-pursuing personnel needed at the termination of the pursuit should respond in a non-emergency manner, observing the rules of the road.

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

### 307.3.6 PURSUIT TRAILING

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

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

### 307.3.7 AIRCRAFT ASSISTANCE

When available, aircraft assistance should be requested. Once the air unit has established visual contact with the pursued vehicle, it should assume control over the pursuit. The primary and secondary ground units should consider the participation of aircraft assistance when determining whether to continue the pursuit.

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

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### **307.4 SUPERVISORY CONTROL AND RESPONSIBILITY**

It is the policy of this department that available supervisory and management control will be exercised over all vehicle pursuits involving deputy probation officers from this department.

Once notified, the supervisor will be responsible for the following:

- (a) Upon becoming aware of a pursuit, immediately ascertaining all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines.
- (b) Engaging in the pursuit, when appropriate, to provide on-scene supervision.
- (c) Exercising management and control of the pursuit even if not engaged in it.
- (d) Ensuring that no more than the number of required units needed are involved in the pursuit under the guidelines set forth in this policy.
- (e) Directing that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.
- (f) Ensuring that aircraft are requested if available.
- (g) Ensuring that the proper radio channel is being used.
- (h) Ensuring the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.
- (i) Controlling and managing TCPD units when a pursuit enters another jurisdiction.
- (j) Preparing post-pursuit critique and analysis of the pursuit for training purposes.

#### **307.4.1 DEPUTY CHIEF RESPONSIBILITY**

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

The Deputy Chief shall review all pertinent reports for content and forward to the Chief Probation Officer.

### **307.5 COMMUNICATIONS**

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

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### 307.5.1 LOSS OF PURSUED VEHICLE

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

### **307.6 INTER-JURISDICTIONAL CONSIDERATIONS**

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

#### 307.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY

Units originally involved will discontinue the pursuit when advised that another agency has assumed the pursuit and assistance of the deputy probation officer is no longer needed. Upon discontinuing the pursuit, the primary unit may proceed upon request, with or at the direction of a supervisor, to the termination point to assist in the investigation.

The role and responsibilities of deputy probation officers at the termination of a pursuit initiated by this department shall be coordinated with appropriate consideration of the units from the agency assuming the pursuit.

Notification of a pursuit in progress should not be construed as a request to join the pursuit. Requests to or from another agency to assume a pursuit should be specific. As a result of communication limitations between local agencies and CHP units, a request for CHP assistance will mean that they will assume responsibilities for the pursuit.

#### 307.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this department should not join a pursuit unless specifically requested to do so by the agency whose officers are in pursuit. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a unit from this department may join the pursuit until sufficient units from the initiating agency join the pursuit.

When a request is made for this department to assist or take over a pursuit from another agency that has entered this jurisdiction, the supervisor should consider these additional following factors:

- (a) Ability to maintain the pursuit
- (b) Circumstances serious enough to continue the pursuit
- (c) Adequate staffing to continue the pursuit

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- (d) The public's safety within this jurisdiction
- (e) Safety of the pursuing deputy probation officers.

As soon as practicable, a supervisor or Deputy Chief should review a request for assistance from another agency. The Deputy Chief or supervisor, after consideration of the above factors, may decline to assist in, or assume the other agency's pursuit.

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

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

### **307.7 PURSUIT INTERVENTION**

Pursuit intervention is an attempt to terminate the ability of a suspect to continue to flee in a motor vehicle through tactical application of technology, road spikes, blocking, boxing, PIT (Pursuit Intervention Technique), ramming or roadblock procedures. In this context, ramming shall be construed to mean maneuvering the unit into contact with the pursued vehicle to mechanically disable or forcibly position it such that further flight is not possible or practicable.

#### **307.7.1 WHEN USE IS AUTHORIZED**

Use of pursuit intervention tactics should be employed only after approval of a supervisor. In deciding whether to use intervention tactics, deputy probation officers/supervisors should balance the risks of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the deputy probation officers and persons in or on the pursued vehicle. With these risks in mind, the decision to use any intervention tactic should be reasonable in light of the circumstances confronting the deputy probation officer at the time of the decision.

It is imperative that deputy probation officers act within the bounds of legality, good judgment and accepted practices.

#### **307.7.2 DEFINITIONS**

**Blocking or vehicle intercept** - A slow-speed coordinated maneuver where two or more patrol vehicles simultaneously intercept and block the movement of a suspect vehicle, the driver of which may be unaware of the impending enforcement stop, with the goal of containment and preventing a pursuit. Blocking is not a moving or stationary road block.

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

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**Pursuit Intervention Technique (PIT)** - A low-speed maneuver designed to cause the suspect vehicle to spin out and terminate the pursuit.

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

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

**Spikes or tack strips** - A device that extends across the roadway designed to puncture the tires of the pursued vehicle.

### 307.7.3 USE OF FIREARMS

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Deputy probation officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances dictate that such use reasonably appears necessary to protect life. Nothing in this section shall be construed to prohibit any deputy probation officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

### 307.7.4 INTERVENTION STANDARDS

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

- (a) Blocking or vehicle intercept should only be considered in cases involving felony suspects or impaired drivers who pose a threat to public safety when deputy probation officers reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. As a result of the potential risks involved, this technique should only be employed by deputy probation officers who have received training in such tactics after giving consideration to the following:
1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risks of injury or death to occupants of the suspect vehicle, deputy probation officers, or other members of the public.
  2. All other reasonable intervention techniques have failed or reasonably appear ineffective.
  3. Employing the blocking maneuver does not unreasonably increase the risk to officer safety.

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4. The target vehicle is stopped or traveling at a low speed.
  5. At no time should civilian vehicles be used to deploy this technique.
- (b) Only those deputy probation officers trained in the use of the Pursuit Intervention Technique (PIT) will be authorized to use this procedure and only then with approval of a supervisor upon consideration of the circumstances and conditions presented at the time, including the potential for risk of injury to deputy probation officers, the public and occupants of the pursued vehicle.
- (c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the deputy probation officer's disposal have been exhausted. This tactic should be reserved for situations where there does not appear to be another reasonable alternative method. This policy is an administrative guide to direct deputy probation officers in their decision-making process before ramming another vehicle. When ramming is used as a means to stop a fleeing vehicle, one or more of the following factors should be present:
1. The suspect is an actual or suspected felon who reasonably appears to represent a serious threat to the public if not apprehended.
  2. The suspect is driving with willful or wanton disregard for the safety of other persons or is driving in a reckless and life-endangering manner.
  3. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.
- (d) As with all intervention techniques, pursuing deputy probation officers should obtain supervisor approval before attempting to box a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, taking into consideration the circumstances and conditions presented at the time as well as the potential risk of injury to deputy probation officers, the public and occupants of the pursued vehicle.
- (e) The use of spike strips should be approved in advance by a supervisor and deployed only when it is reasonably certain that only the pursued vehicle will be affected by their use. Deputy probation officers should carefully consider the limitations of such devices as well as the potential risks to deputy probation officers, the public and occupants of the pursued vehicle. If the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school bus transporting children, deputy probation officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.
- (f) Roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in

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the direct path of a pursued vehicle is generally discouraged and should not be deployed without prior approval of a supervisor and only then under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, deputy probation officers or other members of the public.

### **307.7.5 CAPTURE OF SUSPECTS**

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Deputy probation officers shall use only that amount of force, which reasonably appears necessary under the circumstances, to properly perform their lawful duties.

Unless relieved by a supervisor, the primary deputy probation officer should coordinate efforts to apprehend the suspects following the pursuit. Deputy probation officers should consider safety of the public and the involved deputy probation officers when formulating plans to contain and capture the suspects.

### **307.8 REPORTING REQUIREMENTS**

The following reports should be completed upon conclusion of all pursuits:

- (a) The primary deputy probation officer should complete appropriate crime/arrest reports.
- (b) A Deputy Chief shall ensure that an Allied Agency Vehicle Pursuit Report (form CHP 187A) is filed with the CHP not later than 30 days following the pursuit (Vehicle Code § 14602.1). The primary deputy probation officer should complete as much of the required information on the form as is known and forward the report to the designated Deputy Chief for review and distribution.
- (c) After first obtaining the available information, a field supervisor shall promptly complete a memo, briefly summarizing the pursuit, and submit it to the designated Deputy Chief. This memo should minimally contain the following information:
  - 1. Date and time of pursuit
  - 2. Length of pursuit
  - 3. Involved units and deputy probation officers.
  - 4. Initial reason for pursuit
  - 5. Starting and termination points
  - 6. Disposition (arrest, citation), including arrestee information if applicable
  - 7. Injuries and/or property damage
  - 8. Medical treatment

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9. Name of supervisor at scene
10. A preliminary determination whether the pursuit appears to be in compliance with this policy and whether additional review or follow-up is warranted

### **307.8.1 REGULAR AND PERIODIC PURSUIT TRAINING**

In addition to initial and supplementary Police Officer Standard Training (POST) training on pursuits required by Penal Code § 13519.8, all sworn members of this department will participate no less than annually in regular and periodic department training addressing this policy and the importance of vehicle safety and protecting the public at all times, including a recognition of the need to balance the known offense and the need for immediate capture against the risks to deputy probation officers and others (Vehicle Code § 17004.7(d)).

### **307.8.2 POLICY REVIEW**

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

### **307.9 APPLICATION OF VEHICLE PURSUIT POLICY**

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

## Deputy Probation Officer Response to Calls

### 308.1 PURPOSE AND SCOPE

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

### 308.2 RESPONSE TO CALLS

Deputy probation officers dispatched "Code-3" shall consider the call an emergency response and proceed immediately. Deputy probation officers responding Code-3 shall continuously operate emergency lighting equipment, including at minimum a steady forward facing red light, and shall sound the siren as reasonably necessary pursuant to Vehicle Code § 21055. A deputy probation officer shall not respond code-3 without first completing a department approved emergency vehicle operations course.

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

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

### 308.3 REQUESTING EMERGENCY ASSISTANCE

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

If circumstances permit, the requesting deputy probation officer should give the following information:

- Their Call sign
- Their location
- The reason for the request and type of emergency

### 308.4 INITIATING CODE 3 RESPONSE

If a deputy probation officer believes a Code-3 response to any call is appropriate, the deputy probation officer should immediately notify Dispatch.

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### **308.5 RESPONSIBILITIES OF RESPONDING DEPUTY(S)**

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

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

Upon receiving authorization or determining a Code-3 response is appropriate, the deputy probation officer should immediately give the location from which he/she is responding.

### **308.6 FIELD SUPERVISORY RESPONSIBILITIES**

Upon being notified that a Code-3 response has been initiated, by a member of this department the field supervisor shall verify the following:

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

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

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

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

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

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### **308.7 FAILURE OF EMERGENCY EQUIPMENT**

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

### **308.8 REPORTING OF CODE 3 RESPONSE TO CALLS**

After an officer has responded Code-3 to an incident, and prior to the completion of that shift, a CR2 will be completed describing the incident, need, and assignment as a result of the response. The CR2 shall be turned into the supervisor for their addendum and then forwarded to the Deputy Chief Probation Officer, and ultimately the Training Officer for review and cumulation. This requirement is for a six-month pilot period commencing November 1, 2018, and to be reviewed for continuation on May 1, 2019.

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## Search and Seizure

### 309.1 PURPOSE AND SCOPE

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

### 309.2 POLICY

It is the policy of the Tehama 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 deputy probation officers as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

### 309.3 SEARCHES

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

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

- Valid consent
- Incident to a lawful arrest
- Legitimate community caretaking interests
- Vehicle searches under certain circumstances
- Exigent circumstances
- Fourth Amendment waiver as a condition of probation (*Samson v. California*)

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.

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, deputy probation officer 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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### **309.4 SEARCH PROTOCOL**

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

- (a) Members of this department will strive to conduct searches with dignity and courtesy.
- (b) Deputy probation 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 deputy probation officer, a reasonable effort should be made to summon a deputy probation officer of the same sex as the subject to conduct the search. When it is not practicable to summon a deputy probation officer of the same sex as the subject, the following guidelines should be followed:
  1. Another deputy probation or a supervisor should witness the search.
  2. The deputy probation officer should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

### **309.5 DOCUMENTATION**

Deputy probation officers are responsible to document any search where property is seized or force is used and 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 a deputy probation officer of the same sex as the person being searched and the identification of any witness deputy probation officer

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

## Adult Abuse

### 310.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for reporting of suspected abuse of certain adults who may be more vulnerable than others. This policy also addresses mandatory notification for Tehama County Probation Department members as required by law.

#### 310.1.1 DEFINITIONS

Definitions related to this policy include:

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

**Abuse of an elder (age 65 or older) or dependent adult** - Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering; or the deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering. Neglect includes self-neglect (Welfare and Institutions Code § 15610.07; Penal Code § 368.5).

### 310.2 MANDATORY NOTIFICATION

Members of the Tehama County Probation Department shall notify the local office of the California Department of Social Services (CDSS) APS agency when they reasonably suspect, have observed, or have knowledge of an incident that reasonably appears to be abuse of an elder (age 65 or older) or dependent adult, or are told by an elder or dependent adult that he/she has experienced abuse (Welfare and Institutions Code § 15630(b)).

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

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

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

- (a) If the abuse is physical abuse and occurred in a long-term care facility (not a state mental health hospital or a state developmental center) notification shall be made as follows (Welfare and Institutions Code § 15630(b)(1)):
  1. If there is serious bodily injury, notification shall be made by telephone and, within two hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.

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2. If there is physical abuse and no serious bodily injury, notification shall be made by telephone and, within 24 hours, a written report shall be made to the local ombudsman and the corresponding licensing agency.
  3. If the abuse is allegedly caused by a resident with dementia and there is no serious bodily injury, notification shall be made by telephone and a written report to the local ombudsman within 24 hours.
  4. When a report of abuse is received by the [Department/Office], the local ombudsman shall be called to coordinate efforts to provide the most immediate and appropriate response (Welfare and Institutions Code § 15630(b)).
- (b) If the abuse is in a long-term care facility (not a state mental health or a state developmental center) and is other than physical abuse, a telephone report and a written report shall be made to the local ombudsman as soon as practicable (Welfare and Institutions Code § 15630(b)).
  - (c) The California Department of Public Health (DPH) shall be notified of all known or suspected abuse in a long-term care facility.
  - (d) The SDSS shall be notified of all known or suspected abuse occurring in a residential care facility for the elderly or in an adult day program.
  - (e) If the abuse occurred in an adult day health care center, DPH and the California Department of Aging shall be notified.
  - (f) The Bureau of Medi-Cal Fraud and Elder Abuse shall be notified of all abuse that constitutes criminal activity in a long-term care facility.
  - (g) The District Attorney's office shall be notified of all cases of physical abuse and financial abuse in a long-term care facility.
  - (h) If the abuse occurred at a state mental hospital or a state developmental center, notification shall be made to the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services as soon as practicable but no later than two hours after law enforcement becomes aware of the abuse (Welfare and Institutions Code § 15630(b)).
1. When a report of abuse is received by the [Department/Office], investigation efforts shall be coordinated with the designated investigators of the California Department of State Hospitals or the California Department of Developmental Services (Welfare and Institutions Code § 15630(b)).
- (i) If during an investigation it is determined that the adult abuse is being committed by a licensed health practitioner as identified in Welfare and Institutions Code § 15640(b), the appropriate licensing agency shall be immediately notified (Welfare and Institutions Code 15640(b)).
  - (j) When the [Department/Office] receives a report of abuse, neglect or abandonment of an elder or dependent adult alleged to have occurred in a long-term care facility, the licensing agency shall be notified by telephone as soon as practicable (Welfare and Institutions Code § 15640(e)).

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

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

### **310.2.1 NOTIFICATION INFORMATION**

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

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

### **310.3 RECORDS BUREAU RESPONSIBILITIES**

The Records Section is responsible for:

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

### **310.4 JURISDICTION**

The Tehama County Probation Department has concurrent jurisdiction with state law enforcement agencies when investigating elder and dependent adult abuse and all other crimes against elder victims and victims with disabilities (Penal Code § 368.5).

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

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### **310.5 RELEVANT STATUTES**

#### **Penal Code § 368 (c)**

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

#### **Penal Code § 368 (f)**

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

#### **Welfare and Institutions Code § 15610.05**

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

#### **Welfare and Institutions Code § 15610.06**

“Abduction” means the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, of any elder or dependent adult who does not have the capacity to consent to the removal from this state and the restraint from returning to this state, or the restraint from returning to this state, as well as the removal from this state or the restraint from returning to this state, of any conservatee without the consent of the conservator or the court.

#### **Welfare and Institutions Code § 15610.30**

(a) “Financial abuse” of an elder or dependent adult occurs when a person or entity does any of the following:

- (1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
- (2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
- (3) Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 15610.70.

(b) A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity takes, secretes,

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appropriates, obtains, or retains the property and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult.

(c) For purposes of this section, a person or entity takes, secretes, appropriates, obtains, or retains real or personal property when an elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult.

(d) For purposes of this section, “representative” means a person or entity that is either of the following:

- (1) A conservator, trustee, or other representative of the estate of an elder or dependent adult.
- (2) An attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

### **Welfare and Institutions Code § 15610.43**

(a) “Isolation” means any of the following:

- (1) Acts intentionally committed for the purpose of preventing, and that do serve to prevent, an elder or dependent adult from receiving his or her mail or telephone calls.
- (2) Telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons.
- (3) False imprisonment, as defined in Section 236 of the Penal Code.
- (4) Physical restraint of an elder or dependent adult, for the purpose of preventing the elder or dependent adult from meeting with visitors.

(b) The acts set forth in subdivision (a) shall be subject to a rebuttable presumption that they do not constitute isolation if they are performed pursuant to the instructions of a physician and surgeon licensed to practice medicine in the state, who is caring for the elder or dependent adult at the time the instructions are given, and who gives the instructions as part of his or her medical care.

(c) The acts set forth in subdivision (a) shall not constitute isolation if they are performed in response to a reasonably perceived threat of danger to property or physical safe

### **Welfare and Institutions Code § 15610.57**

(a) “Neglect” means either of the following:

- (1) The negligent failure of any person having the care or custody of an elder or a dependent adult to exercise that degree of care that a reasonable person in a like position would exercise.

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(2) The negligent failure of an elder or dependent adult to exercise that degree of self care that a reasonable person in a like position would exercise.

(b) Neglect includes, but is not limited to, all of the following:

(1) Failure to assist in personal hygiene, or in the provision of food, clothing, or shelter.

(2) Failure to provide medical care for physical and mental health needs. No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.

(3) Failure to protect from health and safety hazards.

(4) Failure to prevent malnutrition or dehydration.

(5) Failure of an elder or dependent adult to satisfy the needs specified in paragraphs (1) to (4), inclusive, for himself or herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health.

### **Welfare and Institutions Code § 15610.63**

15610.63. "Physical abuse" means any of the following:

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

(b) Battery, as defined in Section 242 of the Penal Code.

(c) Assault with a deadly weapon or force likely to produce great bodily injury, as defined in Section 245 of the Penal Code.

(d) Unreasonable physical constraint, or prolonged or continual deprivation of food or water.

(e) Sexual assault, that means any of the following:

(1) Sexual battery, as defined in Section 243.4 of the Penal Code.

(2) Rape, as defined in Section 261 of the Penal Code.

(3) Rape in concert, as described in Section 264.1 of the Penal Code.

(4) Spousal rape, as defined in Section 262 of the Penal Code.

(5) Incest, as defined in Section 285 of the Penal Code.

(6) Sodomy, as defined in Section 286 of the Penal Code.

(7) Oral copulation, as defined in Section 287 or former Section 288a of the Penal Code.

(8) Sexual penetration, as defined in Section 289 of the Penal Code.

(9) Lewd or lascivious acts as defined in paragraph (2) of subdivision (b) of Section 288 of the Penal Code.

(f) Use of a physical or chemical restraint or psychotropic medication under any of the following conditions:

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- (1) For punishment.
- (2) For a period beyond that for which the medication was ordered pursuant to the instructions of a physician and surgeon licensed in the State of California, who is providing medical care to the elder or dependent adult at the time the instructions are given.
- (3) For any purpose not authorized by the physician and surgeon.

## Child Abuse

### 311.1 PURPOSE AND SCOPE

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

#### 311.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

### 311.2 POLICY

The Tehama County Probation Department will notify the agency having primary enforcement jurisdiction and ensure CPS is notified as required by law.

### 311.3 MANDATORY NOTIFICATION

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

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

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

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

For purposes of notification, the abuse or neglect includes physical injury or death inflicted by other than accidental means upon a child by another person; sexual abuse (Penal Code § 11165.1); neglect (Penal Code § 11165.2); the willful harming or injuring of a child or the endangering of the person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury

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

### 311.3.1 NOTIFICATION PROCEDURE

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

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

### 311.4 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

#### 311.4.1 RELEASE OF REPORTS

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

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## Information Technology Use

### 312.1 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.

#### 312.1.1 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 Tehama 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.

### 312.2 POLICY

It is the policy of the Tehama 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.

### 312.3 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).

### **312.4 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 Deputy Chief Probation Officers.

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.

#### **312.4.1 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.

#### **312.4.2 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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### **312.4.3 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.

### **312.4.4 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.

## **312.5 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.

## **312.6 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.

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## News Media Relations

### 313.1 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.

### 313.2 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, Deputy Chiefs, may prepare and release information to the media in accordance with this policy and the applicable law.

#### 313.2.1 MEDIA REQUEST

Any media request for information or access to a law enforcement situation shall be referred to the Chief Probation Officer or if unavailable, to the first available Deputy Chief 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;
- (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.

### 313.3 MEDIA ACCESS

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

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

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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 Chief Probation Officer . 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.

A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through the Chief Probation Officer or designated spokesperson.

### 313.3.1 PROVIDING ADVANCE INFORMATION

To protect the safety and rights of deputy probation officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or probation sweeps, should not be disclosed to the news media, nor should media representatives be invited to be present at such actions except with the prior approval of the Chief Probation Officer.

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

## Subpoenas and Court Appearances

### 314.1 PURPOSE AND SCOPE

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

### 314.2 POLICY

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

### 314.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so. This may be accomplished by personal service to the deputy probation officer or by delivery of two copies of the subpoena to the deputy probation officer's supervisor or other authorized departmental agent (Government Code § 68097.1; Penal Code § 1328(c)).

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

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

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

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

#### 314.3.1 SPECIAL NOTIFICATION REQUIREMENTS

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

- (a) Any civil case where the County or one of its members, as a result of his/her official capacity, is a party.

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

The supervisor will then notify the Chief Probation Officer and the appropriate prosecuting attorney as may be indicated by the case. The Chief Probation Officer should determine if additional legal support is necessary.

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

### **314.3.2 CIVIL SUBPOENA**

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

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

### **314.3.3 OFF-DUTY RELATED SUBPOENAS**

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

### **314.4 FAILURE TO APPEAR**

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

### **314.5 STANDBY**

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

If a member on standby changes 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.

### **314.6 COURTROOM PROTOCOL**

When appearing in court, members shall:

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- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in 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.

### 314.6.1 TESTIMONY

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

### **314.7 OVERTIME APPEARANCES**

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

## Outside Agency Assistance

### 315.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to deputy probation 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.

#### 315.1.1 ASSISTING OUTSIDE AGENCIES

Generally, calls for assistance from other agencies are routed to a field supervisor or a Division Deputy Chief for approval. When an authorized employee of an outside agency requests the assistance of this department in taking a person into custody, available deputy probation officers shall respond and assist in making a lawful arrest. If a deputy probation officer receives a request in the field for assistance, that deputy probation officer should render assistance as appropriate and notify a supervisor as soon as practical. Arrestees may be temporarily detained by our agency until arrangements for transportation are made by the outside agency. Only in exceptional circumstances will this department provide transportation of arrestees to other county facilities.

When such assistance is rendered, a supervisor should be informed of this departments involvement and determine if a report is warranted.

#### 315.1.2 REQUESTING ASSISTANCE FROM OUTSIDE AGENCIES

If assistance is needed for a planned event from another agency, the employee requesting assistance shall first notify their supervisor of his/her intentions. The handling deputy probation officer or supervisor should direct assisting personnel to where they are needed and to whom they should report when they arrive.

The requesting deputy probation officer should secure radio frequencies for use by all involved agencies so that communication can be coordinated as needed. If necessary, reasonable effort should be taken to provide radio equipment capable of communicating on the assigned frequency to any personnel who do not have compatible radios.

## Major Incident Notification

### 316.1 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.

### 316.2 POLICY

The Tehama 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.

### 316.3 MINIMUM CRITERIA FOR NOTIFICATION

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

- Homicides or incidents with serious bodily injury involving a probationer being supervised by this Department
- Serious felony possibly involving a probationer being supervised by this Department.
- Officer-involved shooting - on or off duty (see Officer-Involved Shootings and Deaths Policy for special notifications)
- Significant injury or death to employee - on or off duty
- Arrest of a department employee or prominent Tehama official
- In-custody deaths

### 316.4 NOTIFICATION

In the event a Major Incident described above occurs, members of this Department shall report as soon as practicable via their chain of command, the incident to the Chief Probation Officer along with the affected Division Deputy Chief.

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## Limited English Proficiency Services

### 317.1 PURPOSE AND SCOPE

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

#### 317.1.1 DEFINITIONS

Definitions related to this policy include:

**Authorized interpreter** - A person who has been screened and authorized by the Department to act as an interpreter and/or translator for others.

**Interpret or interpretation** - The act of listening to a communication in one language (source language) and orally converting it to another language (target language), while retaining the same meaning.

**Limited English proficient (LEP)** - Any individual whose primary language is not English and who has a limited ability to read, write, speak or understand English. These individuals may be competent in certain types of communication (e.g., speaking or understanding) but still be LEP for other purposes (e.g., reading or writing). Similarly, LEP designations are context-specific; an individual may possess sufficient English language skills to function in one setting but these skills may be insufficient in other situations.

**Qualified bilingual member** - A member of the Tehama County Probation Department, designated by the Department, who has the ability to communicate fluently, directly and accurately in both English and another language. Bilingual members may be fluent enough to communicate in a non-English language but may not be sufficiently fluent to interpret or translate from one language into another.

**Translate or translation** - The replacement of written text from one language (source language) into an equivalent written text (target language).

### 317.2 POLICY

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

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

### 317.3 LEP COORDINATOR

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

The responsibilities of the LEP Coordinator include, but are not limited to:

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

### **317.4 FOUR-FACTOR ANALYSIS**

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

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- (a) The number or proportion of LEP individuals eligible to be served or likely to be encountered by department members, or who may benefit from programs or services within the jurisdiction of the Department or a particular geographic area.
- (b) The frequency with which LEP individuals are likely to come in contact with department members, programs or services.
- (c) The nature and importance of the contact, program, information or service provided.
- (d) The cost of providing LEP assistance and the resources available.

### **317.5 TYPES OF LEP ASSISTANCE AVAILABLE**

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

The Department will utilize all reasonably available tools, such as language identification cards, when attempting to determine an LEP individual's primary language.

LEP individuals may choose to accept department-provided LEP services at no cost or they may choose to provide their own.

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

### **317.6 WRITTEN FORMS AND GUIDELINES**

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

### **317.7 AUDIO RECORDINGS**

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

### **317.8 QUALIFIED BILINGUAL MEMBERS**

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

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

### **317.9 AUTHORIZED INTERPRETERS**

Any person designated by the Department to act as an authorized interpreter must first pass a proficiency test. The County shall select and administer, or cause to be administered, a standardized proficiency test for all eligible employees.

#### **317.9.1 SOURCES OF AUTHORIZED INTERPRETERS**

The Department may contract with authorized interpreters who are available over the telephone. Members may use these services with the approval of a supervisor and in compliance with established procedures.

Other sources may include:

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

#### **317.9.2 COMMUNITY VOLUNTEERS AND OTHER SOURCES OF LANGUAGE ASSISTANCE**

Language assistance may be available from community volunteers who have demonstrated competence in either monolingual (direct) communication and/or in interpretation or translation (as noted in above), and have been approved by the Department to communicate with LEP individuals.

Where qualified bilingual members or other authorized interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the LEP individual and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

While family or friends of an LEP individual may offer to assist with communication or interpretation, members should carefully consider the circumstances before relying on such individuals. For example, children should not be relied upon except in exigent or very informal and non-confrontational situations.

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### **317.10 CONTACT AND REPORTING**

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

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

### **317.11 RECEIVING AND RESPONDING TO REQUESTS FOR ASSISTANCE**

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

### **317.12 FIELD SUPERVISION**

Field supervision will generally include such contacts as residence verification and compliance checks and other routine field contacts that may involve LEP individuals. The scope and nature of these activities and contacts will inevitably vary. Members and/or supervisors must assess each situation to determine the need and availability of language assistance to all involved LEP individuals and utilize the methods outlined in this policy to provide such assistance.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to request consent to search if the deputy probation officer is unable to effectively communicate with an LEP individual.

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

### **317.13 INVESTIGATIVE FIELD INTERVIEWS**

In any situation where an interview may reveal information that could be used as the basis for arrest or prosecution of an LEP individual and a qualified bilingual member is unavailable or lacks the skills to directly communicate with the LEP individual, an authorized interpreter should be used. This includes interviews conducted during an investigation with victims, witnesses and suspects. In such situations, audio recordings of the interviews should be made when reasonably possible. Identification and contact information for the interpreter (e.g., name, address) should be documented so that the person can be subpoenaed for trial if necessary.

If an authorized interpreter is needed, deputy probation officers should consider calling for an authorized interpreter in the following order:

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- An authorized department member or allied agency interpreter
- An authorized telephone interpreter
- Any other authorized interpreter

Any *Miranda* warnings shall be provided to suspects in their primary language by an authorized interpreter or, if the suspect is literate, by providing a translated *Miranda* warning card.

The use of an LEP individual's bilingual friends, family members, children, neighbors or bystanders may be used only when a qualified bilingual member or authorized interpreter is unavailable and there is an immediate need to interview an LEP individual.

### **317.14 CUSTODIAL INTERROGATIONS**

Miscommunication during custodial interrogations may have a substantial impact on the evidence presented in a criminal prosecution. Only qualified bilingual members or, if none is available or appropriate, authorized interpreters shall be used during custodial interrogations. *Miranda* warnings shall be provided to suspects in their primary language by the qualified bilingual member or an authorized interpreter.

In order to ensure that translations during custodial interrogations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible.

### **317.15 COMPLAINTS**

The Department shall ensure that LEP individuals who wish to file a complaint regarding members of this department are able to do so. The Department may provide an authorized interpreter or translated forms, as appropriate. Complaints will be referred to the LEP Coordinator.

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Authorized interpreters used for any interview with an LEP individual during an investigation should not be members of this department.

Any notice required to be sent to an LEP individual as a complaining party pursuant to the Personnel Complaints Policy should be translated or otherwise communicated in a language-accessible manner.

### **317.16 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department are important to our Mission. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

### **317.17 TRAINING**

To ensure that all members who may have contact with LEP individuals are properly trained, the Department will provide periodic training on this policy and related procedures, including

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how to access department-authorized telephonic and in-person interpreters and other available resources.

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

## Communications with Persons with Disabilities

### 318.1 PURPOSE AND SCOPE

This policy provides guidance to members when communicating with individuals with disabilities, including those who are deaf or hard of hearing, have impaired speech or vision, or are blind.

#### 318.1.1 DEFINITIONS

Definitions related to this policy include:

**Auxiliary aids** - Tools used to communicate with people who have a disability or impairment. They include, but are not limited to, the use of gestures or visual aids to supplement oral communication; a notepad and pen or pencil to exchange written notes; a computer or typewriter; an assistive listening system or device to amplify sound; a teletypewriter (TTY) or videophones (video relay service or VRS); taped text; qualified readers; or a qualified interpreter.

**Disability or impairment** - A physical or mental impairment that substantially limits a major life activity, including hearing or seeing, regardless of whether the disabled person uses assistive or adaptive devices or auxiliary aids. Individuals who wear ordinary eyeglasses or contact lenses are not considered to have a disability (42 USC § 12102).

**Qualified interpreter** - A person who is able to interpret effectively, accurately and impartially, both receptively and expressively, using any necessary specialized vocabulary. Qualified interpreters include oral interpreters, translators, sign language interpreters and intermediary interpreters.

### 318.2 POLICY

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

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

### 318.3 AMERICANS WITH DISABILITIES (ADA) COORDINATOR

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

The responsibilities of the ADA Coordinator shall include, but not be limited to:

- (a) Working with the County ADA coordinator regarding the Tehama County Probation Department's efforts to ensure equal access to services, programs and activities.
- (b) Developing reports, new procedures, or recommending modifications to this policy.

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- (c) Acting as a liaison with local disability advocacy groups or other disability groups regarding access to department services, programs and activities.
- (d) Ensuring that a list of qualified interpreter services is maintained and available to each Deputy Chief Probation Officer and Dispatch Supervisor. The list should include information regarding the following:
  - 1. Contact information
  - 2. Availability
- (e) Developing procedures that will enable members to access auxiliary aids or services, including qualified interpreters, and ensure the procedures are available to all members.
- (f) Ensuring signage is posted in appropriate areas, indicating that auxiliary aids are available free of charge to people with disabilities.
- (g) Ensuring appropriate processes are in place to provide for the prompt and equitable resolution of complaints and inquiries regarding discrimination in access to department services, programs and activities.

### **318.4 FACTORS TO CONSIDER**

Because the nature of any law enforcement contact may vary substantially from one situation to the next, members of this department should consider all information reasonably available to them when determining how to communicate with an individual with a disability. Members should carefully balance all known factors in an effort to reasonably ensure people who are disabled have equal access to services, programs and activities. These factors may include, but are not limited to:

- (a) Members should not always assume that effective communication is being achieved. The fact that an individual appears to be nodding in agreement does not always mean he/she completely understands the message. When there is any doubt, members should ask the individual to communicate back or otherwise demonstrate their understanding.
- (b) The nature of the disability (e.g., deafness or blindness vs. hard of hearing or low vision).
- (c) The nature of the law enforcement contact (e.g., emergency vs. non-emergency, custodial vs. consensual contact).
- (d) The availability of auxiliary aids. The fact that a particular aid is not available does not eliminate the obligation to reasonably ensure access. However, in an emergency, availability may factor into the type of aid used.

### **318.5 INITIAL AND IMMEDIATE CONSIDERATIONS**

Recognizing that various law enforcement encounters may be potentially volatile and/or emotionally charged, members should remain alert to the possibility of communication problems.

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Members should exercise special care in the use of all gestures, and verbal and written communication to minimize initial confusion and misunderstanding when dealing with any individual with known or suspected disabilities.

In a non-emergency situation, when a member knows or suspects an individual requires assistance to effectively communicate, the member shall identify the individual's choice of auxiliary aid or service.

The individual's preferred communication method must be honored unless another effective method of communication exists under the circumstances (28 CFR 35.160).

Factors to consider when determining whether an alternative method is effective include:

- (a) The methods of communication usually used by the individual.
- (b) The nature, length and complexity of the communication involved.
- (c) The context of the communication.

In emergency situations involving an imminent threat to the safety or welfare of any person, members may use whatever auxiliary aids and services that reasonably appear effective under the circumstances. This may include, for example, exchanging written notes or using the services of a person who knows sign language but is not a qualified interpreter, even if the person who is deaf or hard of hearing would prefer a qualified sign language interpreter or another appropriate auxiliary aid or service. Once the emergency has ended, the continued method of communication should be reconsidered. The member should inquire as to the individual's preference and give primary consideration to that preference.

If an individual who is deaf, hard of hearing or has impaired speech must be handcuffed while in the custody of the Tehama County Probation Department, consideration should be given, safety permitting, to placing the handcuffs in the front of the body to facilitate communication using sign language or writing.

### **318.6 TYPES OF ASSISTANCE AVAILABLE**

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

A person who is disabled may choose to accept department-provided auxiliary aids or services or they may choose to provide their own.

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

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### **318.7 AUDIO RECORDINGS AND ENLARGED PRINT**

The Department may develop audio recordings to assist people who are blind or have a visual impairment with accessing important information. If such a recording is not available, members may read aloud from the appropriate form, for example a personnel complaint form, or provide forms with enlarged print.

### **318.8 QUALIFIED INTERPRETERS**

A qualified interpreter may be needed in lengthy or complex transactions (e.g., interviewing a victim, witness, suspect or arrestee), if the individual to be interviewed normally relies on sign language or speechreading (lip-reading) to understand what others are saying. The qualified interpreter should not be a person with an interest in the case or investigation involving the disabled individual. A person providing interpretation services may be required to establish the accuracy and trustworthiness of the interpretation in a court proceeding.

Qualified interpreters should be:

- (a) Available within a reasonable amount of time but in no event longer than one hour if requested.
- (b) Experienced in providing interpretation services related to law enforcement matters.
- (c) Familiar with the use of VRS and/or video remote interpreting services.
- (d) Certified in either American Sign Language (ASL) or Signed English (SE).
- (e) Able to understand and adhere to the interpreter role without deviating into other roles, such as counselor or legal adviser.
- (f) Knowledgeable of the ethical issues involved when providing interpreter services.

Members should use department-approved procedures to request a qualified interpreter at the earliest reasonable opportunity, and generally not more than 15 minutes after a request for an interpreter has been made or it is reasonably apparent that an interpreter is needed. No individual who is disabled shall be required to provide his/her own interpreter (28 CFR 35.160).

### **318.9 TTY AND RELAY SERVICES**

In situations where an individual without a disability would have access to a telephone (e.g., booking or attorney contacts), members must also provide those who are deaf, hard of hearing or have impaired speech the opportunity to place calls using an available TTY (also known as a telecommunications device for deaf people, or TDD). Members shall provide additional time, as needed, for effective communication due to the slower nature of TTY and TDD communications.

The Department will accept all TTY or TDD calls placed by those who are deaf or hard of hearing and received via a telecommunications relay service (28 CFR 35.162).

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

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### **318.10 COMMUNITY VOLUNTEERS**

Interpreter services may be available from community volunteers who have demonstrated competence in communication services, such as ASL or SE, and have been approved by the Department to provide interpreter services.

Where qualified interpreters are unavailable to assist, approved community volunteers who have demonstrated competence may be called upon when appropriate. However, department members must carefully consider the nature of the contact and the relationship between the individual with the disability and the volunteer to ensure that the volunteer can provide neutral and unbiased assistance.

### **318.11 FAMILY AND FRIENDS**

While family or friends may offer to assist with interpretation, members should carefully consider the circumstances before relying on such individuals. The nature of the contact and relationship between the individual with the disability and the person offering services must be carefully considered (e.g., victim/suspect).

Children shall not be relied upon except in emergency or critical situations when there is no qualified interpreter reasonably available.

Adults may be relied upon when (28 CFR 35.160):

- (a) There is an emergency or critical situation and there is no qualified interpreter reasonably available.
- (b) The person with the disability requests that the adult interpret or facilitate communication and the adult agrees to provide such assistance, and reliance on that adult for such assistance is reasonable under the circumstances.

### **318.12 REPORTING**

Whenever any member of this department is required to complete a report or other documentation, and communication assistance has been provided, such services should be noted in the related report. Members should document the type of communication services utilized and whether the individual elected to use services provided by the Department or some other identified source. If the individual's express preference is not honored, the member must document why another method of communication was used.

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

### **318.13 FIELD ENFORCEMENT**

Field enforcement will generally include such contacts as traffic stops, pedestrian stops, serving warrants and restraining orders, crowd/traffic control and other routine field contacts that may involve individuals with disabilities. The scope and nature of these activities and contacts will inevitably vary.

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The Department recognizes that it would be virtually impossible to provide immediate access to complete communication services to every member of this department. Members and/or supervisors must assess each situation and consider the length, complexity and importance of the communication, as well as the individual's preferred method of communication, when determining the type of resources to use and whether a qualified interpreter is needed.

Although not every situation can be addressed in this policy, it is important that members are able to effectively communicate the reason for a contact, the need for information and the meaning or consequences of any enforcement action. For example, it would be meaningless to verbally request consent to search if the deputy probation officer is unable to effectively communicate with an individual who is deaf or hard of hearing and requires communications assistance.

If available, deputy probation officers should obtain the assistance of a qualified interpreter before placing an individual with a disability under arrest. Individuals who are arrested and are assisted by service animals should be permitted to make arrangements for the care of such animals prior to transport.

### **318.13.1 FIELD RESOURCES**

Examples of methods that may be sufficient for transactions, such as checking a license or giving directions to a location or for urgent situations such as responding to a violent crime in progress, may, depending on the circumstances, include such simple things as:

- (a) Hand gestures or visual aids with an individual who is deaf, hard of hearing or has impaired speech.
- (b) Exchange of written notes or communications.
- (c) Verbal communication with an individual who can speechread by facing the individual and speaking slowly and clearly.
- (d) Use of computer, word processing, personal communication device or similar device to exchange texts or notes.
- (e) Slowly and clearly speaking or reading simple terms to individuals who have a visual or mental impairment.

Members should be aware that these techniques may not provide effective communication as required by law and this policy depending on the circumstances.

### **318.14 CUSTODIAL INTERROGATIONS**

In an effort to ensure that the rights of individuals who are deaf, hard of hearing or have speech impairment are protected during a custodial interrogation, this department will provide interpreter services before beginning an interrogation, unless exigent circumstances exist or the individual has made a clear indication that he/she understands the process and desires to proceed without an interpreter. The use of a video remote interpreting service should be considered, where appropriate, if a live interpreter is not available. *Miranda* warnings shall be provided to suspects

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who are deaf or hard of hearing by a qualified interpreter or by providing a written *Miranda* warning card.

In order to ensure that communications during custodial investigations are accurately documented and are admissible as evidence, interrogations should be recorded whenever reasonably possible. See guidance on recording custodial interrogations in the Investigation and Prosecution Policy.

### **318.15 ARREST AND BOOKINGS**

If an individual with speech or hearing disabilities is arrested, the arresting deputy probation officer shall use department-approved procedures to provide a qualified interpreter at the place of arrest or booking as soon as reasonably practicable, unless the individual indicates that he/she prefers a different auxiliary aid or service or the deputy probation officer reasonably determines another effective method of communication exists under the circumstances.

When gathering information during the booking process, members should remain alert to the impediments that often exist when communicating with those who are deaf, hard of hearing, who have impaired speech or vision, are blind, or have other disabilities. In the interest of the arrestee's health and welfare, the safety and security of the facility and to protect individual rights, it is important that accurate medical screening and booking information be obtained. If necessary, members should seek the assistance of a qualified interpreter whenever there is concern that accurate information cannot be obtained or that booking instructions may not be properly understood by the individual.

Individuals who require and possess personally owned communication aids (e.g., hearing aids, cochlear processors) should be permitted to retain them while in custody.

### **318.16 COMPLAINTS**

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

Investigations into such complaints shall be handled in accordance with the Personnel Complaints Policy. Qualified interpreters used during the investigation of a complaint should not be members of this Department.

### **318.17 COMMUNITY OUTREACH**

Community outreach programs and other such services offered by this department are important to the success of our mission. This department will continue to work with community groups, local businesses and neighborhoods to provide equal access to such programs and services.

### **318.18 TRAINING**

To ensure that all members who may have contact with individuals who are disabled are properly trained, the Department will provide periodic training that should include:

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- (a) Awareness and understanding of this policy and related procedures, related forms and available resources.
- (b) Procedures for accessing qualified interpreters and other available resources.
- (c) Working with in-person and telephone interpreters and related equipment.

The Training Coordinator shall be responsible for ensuring new members receive training related to interacting with individuals who have disabilities, including individuals who are deaf, hard of hearing, who have impaired speech or vision, or are blind. Those who may have contact with such individuals should receive refresher training at least once every two years thereafter. The Training Coordinator shall maintain records of all training provided, and will retain a copy in each member's training file in accordance with established records retention schedules.

## **Mandatory Employer Notification**

### **319.1 PURPOSE AND SCOPE**

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

### **319.2 MANDATORY SCHOOL EMPLOYEE ARREST REPORTING**

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

#### **319.2.1 ARREST OF PUBLIC SCHOOL TEACHER**

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

#### **319.2.2 ARREST OF PUBLIC SCHOOL NON-TEACHER EMPLOYEE**

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

#### **319.2.3 ARREST OF PRIVATE SCHOOL TEACHER**

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

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### **319.2.4 ARREST OF COMMUNITY COLLEGE INSTRUCTOR**

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

### **319.3 POLICY**

The Tehama County Probation Department will meet the reporting requirements of California law to minimize the risks to children and others.

### **319.4 ARREST OF PERSONS EMPLOYED IN COMMUNITY CARE FACILITIES**

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

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## Child and Dependent Adult Safety

### 320.1 PURPOSE AND SCOPE

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

### 320.2 POLICY

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

### 320.3 PROCEDURES DURING AN ARREST

When encountering an arrest or prolonged detention situation, deputy probation 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, deputy probation 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. Deputy probation 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, deputy probation 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, deputy probation 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 deputy probation 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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### 320.3.1 AFTER AN ARREST

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

Deputy probation 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. Unless there is evidence to the contrary (e.g., signs of abuse, drug use, unsafe environment), deputy probation 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.
  2. Except when a court order exists limiting contact, the deputy probation officers should attempt to locate and place children or dependent adults with the non-arrested parent, guardian or caregiver.
- (b) Provide for the immediate supervision of children or dependent adults until an appropriate caregiver arrives.
- (c) Notify Child Protective Services or the Division of Aging and Adult Services, if appropriate.
- (d) Notify the field supervisor or Division Deputy Chief 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 deputy probation officer should attempt to contact the school or other known location and inform the principal or appropriate responsible adult of the caregiver's arrest and of the arrangements being made for the care of the arrestee's dependent. The result of such actions should be documented in the associated report.

### 320.3.2 DURING THE BOOKING PROCESS

During the booking process the arrestee 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)).

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.

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### 320.3.3 REPORTING

- (a) For all arrests where children are present or living in the household, the reporting employee will document the following information:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. How, where and with whom or which agency the child was placed
- (b) For all arrests where dependent adults are present or living in the household, the reporting employee will document the following information:
  - 1. Name
  - 2. Sex
  - 3. Age
  - 4. Whether he/she reasonably appears able to care for him/herself
  - 5. Disposition or placement information if he/she is unable to care for him/herself

### 320.3.4 SUPPORT AND COUNSELING REFERRAL

If, in the judgment of the handling deputy probation officer, the child or dependent adult would benefit from additional assistance, such as counseling services, contact with a victim advocate or a crisis telephone number, the appropriate referral information may be provided.

### **320.4 DEPENDENT WELFARE SERVICES**

Whenever an arrestee is unwilling or incapable of arranging for the appropriate care of any child or dependent adult, the handling deputy probation 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.

### **320.5 TRAINING**

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

## Service Animals

### 321.1 PURPOSE AND SCOPE

The purpose of this policy is to provide 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).

#### 321.1.1 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)).

### 321.2 POLICY

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

### 321.3 IDENTIFICATION AND USE OF SERVICE ANIMALS

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

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

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

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## *Service Animals*

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

### **321.4 MEMBER RESPONSIBILITIES**

Service animals 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 Tehama County Probation Department affords to all members of the public (28 CFR 35.136).

#### **321.4.1 INQUIRY**

If it is apparent or if a member 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.

#### **321.4.2 CONTACT**

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

#### **321.4.3 REMOVAL**

If a service animal is not housebroken or exhibits vicious behavior, poses a direct threat to the health of others, or unreasonably disrupts or interferes with normal business operations, a deputy probation 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.

## Off-Duty Law Enforcement Actions

### 322.1 PURPOSE AND SCOPE

The decision to become involved in a law enforcement action when off-duty can place a deputy probation officer as well as others at great risk and must be done with careful consideration. This policy is intended to provide guidelines for deputy probation officers of the Tehama County Probation Department with respect to taking law enforcement action while off-duty.

### 322.2 POLICY

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

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

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

### 322.3 DECISION TO INTERVENE

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

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

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

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## *Off-Duty Law Enforcement Actions*

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### **322.3.1 INTERVENTION PROCEDURE**

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

Whenever practicable, the deputy probation officer should loudly and repeatedly identify him/herself as a Tehama County deputy probation officer until acknowledged. Official identification should also be displayed.

### **322.3.2 INCIDENTS OF PERSONAL INTEREST**

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

### **322.3.3 NON-SWORN RESPONSIBILITIES**

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

### **322.3.4 OTHER CONSIDERATIONS**

When encountering a non-uniformed peace officer in public, on duty deputy probation officers should wait for acknowledgement by the non-uniformed peace officer in case he/she needs to maintain an undercover capability.

## **322.4 REPORTING**

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

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

## Reporting Police Activity Outside of Jurisdiction

### 324.1 PURPOSE AND SCOPE

This policy provides general guidelines for reporting law enforcement activity while on or off-duty and occurring outside the jurisdiction of the Tehama County Probation Department.

#### 324.1.1 ASSISTANCE TO AGENCIES OUTSIDE THE COUNTY

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

#### 324.1.2 LAW ENFORCEMENT ACTIVITY OUTSIDE THE COUNTY

Any on-duty deputy probation officer who engages in law enforcement activities of any type outside the immediate jurisdiction of the Tehama County Probation Department shall notify his or her supervisor, Deputy Chief, or Chief Probation Officer at the earliest possible opportunity. Any off-duty deputy probation officer who engages in any law enforcement activities, regardless of jurisdiction shall notify his or her supervisor, Deputy Chief, or Chief Probation Officer as soon as practical.

The supervisor shall determine if a case report or other documentation of the deputy probation officer's activity is required. The report or other documentation shall be forwarded to the deputy probation officer's Division Deputy Chief .

# Foreign Diplomatic and Consular Representatives

## 325.1 PURPOSE AND SCOPE

This policy provides guidelines to ensure that members of the Tehama County Probation Department extend appropriate privileges and immunities to foreign diplomatic and consular representatives in accordance with international law.

## 325.2 POLICY

The Tehama County Probation Department respects international laws related to the special privileges and immunities afforded foreign diplomatic and consular representatives assigned to the United States.

All foreign diplomatic and consular representatives shall be treated with respect and courtesy, regardless of any privileges or immunities afforded them.

## 325.3 CLAIMS OF IMMUNITY

If a member comes into contact with a person where law enforcement action may be warranted and the person claims diplomatic or consular privileges and immunities, the member should, without delay:

- (a) Notify a supervisor.
- (b) Advise the person that his/her claim will be investigated and he/she may be released in accordance with the law upon confirmation of the person's status.
- (c) Request the person's identification card, either issued by the U.S. Department of State (DOS), Office of the Chief of Protocol, or in the case of persons accredited to the United Nations, by the U.S. Mission to the United Nations. These are the only reliable documents for purposes of determining privileges and immunities.
- (d) Contact the DOS Diplomatic Security Command Center at 571-345-3146 or toll free at 866-217-2089, or at another current telephone number and inform the center of the circumstances.
- (e) Verify the immunity status with DOS and follow any instructions regarding further detention, arrest, prosecution and/or release, as indicated by the DOS representative. This may require immediate release, even if a crime has been committed.

Identity or immunity status should not be presumed from the type of license plates displayed on a vehicle. If there is a question as to the status or the legitimate possession of a Diplomat or Consul license plate, a query should be run via the National Law Enforcement Telecommunications System (NLETS), designating "US" as the state.

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## *Foreign Diplomatic and Consular Representatives*

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### **325.4 ENFORCEMENT**

If the DOS is not immediately available for consultation regarding law enforcement action, members shall be aware of the following:

- (a) Generally, all persons with diplomatic and consular privileges and immunities may be issued a citation or notice to appear. However, the person may not be compelled to sign the citation.
- (b) All persons, even those with a valid privilege or immunity, may be reasonably restrained in exigent circumstances for purposes of self-defense, public safety or the prevention of serious criminal acts.
- (c) An impaired foreign diplomatic or consular representative may be prevented from driving a vehicle, even if the person may not be arrested due to privileges and immunities.
  1. Investigations, including the request for field sobriety tests, chemical tests and any other tests regarding impaired driving may proceed but they shall not be compelled.
- (d) The following persons may not be detained or arrested, and any property or vehicle owned by these persons may not be searched or seized:
  1. Diplomatic-level staff of missions to international organizations and recognized family members
  2. Diplomatic agents and recognized family members
  3. Members of administrative and technical staff of a diplomatic mission and recognized family members
  4. Career consular officers, unless the person is the subject of a felony warrant
- (e) The following persons may generally be detained and arrested:
  1. International organization staff; however, some senior officers are entitled to the same treatment as diplomatic agents.
  2. Support staff of missions to international organizations
  3. Diplomatic service staff and consular employees; however, special bilateral agreements may exclude employees of certain foreign countries.
  4. Honorary consular officers
  5. Whenever a deputy probation officer arrests and incarcerates, or detains for investigation for over two hours, a person with diplomatic and consular privileges and immunities, the deputy probation officer shall promptly advise the person that he/she is entitled to have his/her government notified of the arrest or detention (Penal Code § 834c). If the individual wants his/her government notified, the deputy probation officer shall begin the notification process.

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## *Foreign Diplomatic and Consular Representatives*

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### **325.5 DOCUMENTATION**

All contacts with persons who have claimed privileges and immunities afforded foreign diplomatic and consular representatives should be thoroughly documented and the related reports forwarded to DOS.

#### **325.5.1 VEHICLE SEARCH**

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

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## Contacts and Temporary Detentions

### 326.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for temporarily detaining but not arresting persons in the field, conducting field interviews (FI) and pat-down searches, and the taking and disposition of photographs.

#### 326.1.1 DEFINITIONS

Definitions related to this policy include:

**Consensual encounter** - When a deputy probation officer contacts an individual but does not create a detention through words, actions, or other means. In other words, a reasonable individual would believe that his/her contact with the deputy probation officer is voluntary.

**Field interview** - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purpose of determining the individual's identity and resolving the deputy probation officer's suspicions.

**Field photographs** - Posed photographs taken of a person during a contact, temporary detention, or arrest in the field. Undercover surveillance photographs of an individual and recordings captured by the normal operation of a Mobile Audio Video (MAV) system, body-worn camera, or public safety camera when persons are not posed for the purpose of photographing are not considered field photographs.

**Pat-down search** - A type of search used by deputy probation officers in the field to check an individual for dangerous weapons. It involves a thorough patting-down of clothing to locate any weapons or dangerous items that could pose a danger to the deputy probation officer, the detainee, or others.

**Reasonable suspicion** - When, under the totality of the circumstances, a deputy probation officer has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

**Temporary detention** - When a deputy probation officer intentionally, through words, actions, or physical force, causes an individual to reasonably believe he/she is required to restrict his/her movement without an actual arrest. Temporary detentions also occur when a deputy probation officer actually restrains a person's freedom of movement.

### 326.2 POLICY

The Tehama County Probation Department respects the right of the public to be free from unreasonable searches or seizures. Due to an unlimited variety of situations confronting the deputy probation officer, the decision to temporarily detain a person and complete a field interview (FI), pat-down search, or field photograph shall be left to the deputy probation officer based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.

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## *Contacts and Temporary Detentions*

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### **326.3 FIELD INTERVIEWS**

Based on observance of suspicious circumstances or upon information from investigation, a deputy probation officer may initiate the stop of a person, and conduct an FI, when there is articulable, reasonable suspicion to do so. A person, however, shall not be detained longer than is reasonably necessary to resolve the deputy probation officer's suspicion.

Nothing in this policy is intended to discourage consensual contacts. Frequent casual contact with consenting individuals is encouraged by the Tehama County Probation Department to strengthen community involvement, community awareness, and problem identification.

#### **326.3.1 INITIATING A FIELD INTERVIEW**

When initiating the stop, the deputy probation officer should be able to point to specific facts which, when considered with the totality of the circumstances, reasonably warrant the stop. Such facts include but are not limited to an individual's:

- (a) Appearance or demeanor suggesting that he/she is part of a criminal enterprise or is engaged in a criminal act
- (b) Actions suggesting that he/she is engaged in a criminal activity
- (c) Presence in an area at an inappropriate hour of the day or night
- (d) Presence in a particular area is suspicious
- (e) Carrying of suspicious objects or items
- (f) Excessive clothes for the climate or clothes bulging in a manner that suggest he/she is carrying a dangerous weapon
- (g) Location in proximate time and place to an alleged crime
- (h) Physical description or clothing worn that matches a suspect in a recent crime
- (i) Prior criminal record or involvement in criminal activity as known by the deputy probation officer

### **326.4 PAT-DOWN SEARCHES**

Once a valid stop has been made, and consistent with the deputy probation officer's training and experience, a deputy probation officer may pat a suspect's outer clothing for weapons if the deputy probation officer has a reasonable, articulable suspicion the suspect may pose a safety risk. The purpose of this limited search is not to discover evidence of a crime, but to allow the deputy probation officer to pursue the investigation without fear of violence. Circumstances that may establish justification for performing a pat-down search include but are not limited to:

- (a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons is involved.
- (b) Where more than one suspect must be handled by a single deputy probation officer.
- (c) The hour of the day and the location or neighborhood where the stop takes place.
- (d) Prior knowledge of the suspect's use of force and/or propensity to carry weapons.

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- (e) The actions and demeanor of the suspect.
- (f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

Whenever practicable, a pat-down search should not be conducted by a lone deputy probation officer. A cover deputy probation officer should be positioned to ensure safety and should not be involved in the search.

### **326.5 FIELD PHOTOGRAPHS**

All available databases should be searched before photographing any field detainee. If a photograph is not located, or if an existing photograph no longer resembles the detainee, the deputy probation officer shall carefully consider, among other things, the factors listed below.

#### **326.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT**

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

#### **326.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT**

Field photographs may be taken without consent only if they are taken during a detention that is based upon reasonable suspicion of criminal activity, and the photograph serves a legitimate law enforcement purpose related to the detention. The deputy probation officer must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct. The subject should not be ordered to remove or lift any clothing for the purpose of taking a photograph.

If, prior to taking a photograph, the deputy probation officer's reasonable suspicion of criminal activity has been dispelled, the detention must cease and the photograph should not be taken.

All field photographs and related reports shall be submitted to a supervisor and retained in compliance with this policy.

#### **326.5.3 DISPOSITION OF PHOTOGRAPHS**

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

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

- (a) If the photograph and associated FI or documentation is relevant to criminal organization/enterprise enforcement, the Deputy Chief Probation Officer will forward the photograph and documents to the designated criminal intelligence system supervisor. The supervisor will ensure the photograph and supporting documents are retained as prescribed in the Criminal Organizations Policy.

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- (b) Photographs that do not qualify for retention in a criminal intelligence system or temporary information file shall be forwarded to the Records Section.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs shall be retained in accordance with the established records retention schedule.

### **326.5.4 SUPERVISOR RESPONSIBILITIES**

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

Access to, and use of, field photographs shall be strictly limited to law enforcement purposes.

### **326.5.5 PURGING THE FIELD PHOTO FILE**

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

## **326.6 PHOTO REVIEW POLICY**

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

### **326.6.1 REVIEW PROCESS**

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

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

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

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

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

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

If the Chief Probation Officer or his/her designee determines that the original legitimate law enforcement interest in retaining a non-arrest FI no longer exists or that the original FI was not obtained in accordance with established law or Tehama County Probation Department policy, the original FI may only be destroyed upon the execution of a full and complete waiver of liability by the individual (and guardian if a minor) arising out of that field contact.

If the Chief Probation Officer or his/her designee determines that any involved Tehama County Probation Department personnel violated existing law or department policy, the Chief Probation Officer or designee shall initiate a separate internal investigation which may result in additional training, discipline or other appropriate action for the involved employee(s).

The person photographed/FI'd will be informed in writing within 30 days of the Chief Probation Officer's determination whether or not the photograph/FI will be retained. This does not entitle any person to any discovery or access to any law enforcement records not otherwise authorized by law.

### **326.7 WITNESS IDENTIFICATION AND INTERVIEWS**

Because potential witnesses to an incident may become unavailable or the integrity of their statements compromised with the passage of time, deputy probation officers should, when warranted by the seriousness of the case, take reasonable steps to promptly coordinate with an on-scene supervisor and/or criminal investigator to utilize available members for the following:

- (a) Identifying all persons present at the scene and in the immediate area.

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1. When feasible, a recorded statement should be obtained from those who claim not to have witnessed the incident but who were present at the time it occurred.
  2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, deputy probation officers should attempt to identify the witness prior to his/her departure.
- (b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by Tehama County Probation Department members.
1. A written, verbal, or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transport.

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## Foot Pursuits

### 327.1 PURPOSE AND SCOPE

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

#### 327.1.1 POLICY

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

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

### 327.2 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. Deputy probation officers must be mindful that immediate apprehension of a suspect is rarely more important than the safety of the public and department members.

Deputy probation officers may be justified in initiating a foot pursuit of any individual the deputy probation 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 a deputy probation 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 deputy probation 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, a deputy probation officer should continuously consider reasonable alternatives to a foot pursuit based upon the circumstances and resources available, such as:

- (a) Containment of the area.

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- (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.

### **327.3 GENERAL GUIDELINES**

When reasonably practicable, a deputy probation officer 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 deputy probation officer is acting alone.
- (c) Two or more deputy probation officer become separated, lose visual contact with one another, or obstacles separate them to the degree that they cannot immediately assist each other should a confrontation take place. In such circumstances, it is generally recommended that a single deputy probation officer keep the suspect in sight from a safe distance and coordinate the containment effort.
- (d) The deputy probation officer is unsure of his/her location and direction of travel.
- (e) The deputy probation officer is pursuing multiple suspects and it is not reasonable to believe that the deputy probation officer would be able to control the suspect should a confrontation occur.
- (f) The physical condition of the deputy probation officer renders him/her incapable of controlling the suspect if apprehended.
- (g) The deputy probation officer loses radio contact with the dispatcher or with assisting or backup deputy probation officer.
- (h) The suspect enters a building, structure, confined space, isolated area or dense or difficult terrain, and there are insufficient deputy probation officer to provide backup and containment. The primary deputy probation officer should consider discontinuing the foot pursuit and coordinating containment pending the arrival of sufficient resources.
- (i) The deputy probation officer becomes aware of unanticipated or unforeseen circumstances that unreasonably increase the risk to the deputy probation officer or the public.
- (j) The deputy probation officer reasonably believes that the danger to the pursuing deputy probation officers or public outweighs the objective of immediate apprehension.

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- (k) The deputy probation officer loses possession of his/her firearm or other essential equipment.
- (l) The deputy probation 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 deputy probation officer's ability to safely continue the pursuit is impaired by inclement weather, darkness or other environmental conditions.

### **327.4 RESPONSIBILITIES IN FOOT PURSUITS**

#### **327.4.1 INITIATING DEPUTY PROBATION OFFICER RESPONSIBILITIES**

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

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

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

Deputy probation 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 deputy probation 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 deputy probation 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),

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and will direct further actions as reasonably appear necessary, to include requesting medical aid as needed for deputy probation officers, suspects or members of the public.

### 327.4.2 ASSISTING DEPUTY PROBATION OFFICER RESPONSIBILITIES

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

### 327.5 REPORTING REQUIREMENTS

The initiating deputy probation 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.
- (e) Involved vehicles and deputy probation officer.
- (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 deputy probation 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 deputy probation officer need not complete a formal report.

### 327.6 POLICY

It is the policy of this department that deputy probation 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.

Deputy probation officers are expected to act reasonably, based on the totality of the circumstances.

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## Portable Audio/Video Recorders

### 328.1 PURPOSE AND SCOPE

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

This policy does not apply to lawful surreptitious audio/video recording, interception of communications for authorized investigative purposes.

### 328.2 POLICY

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

### 328.3 MEMBER PRIVACY EXPECTATION

All recordings made by members acting in their official capacity shall remain the property of the Department regardless of whether those recordings were made with department-issued or personally owned recorders. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

### 328.4 DEPUTY PROBATION OFFICER'S RESPONSIBILITIES

Deputy probation officers may carry an approved portable recorder at any time he or she believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, deputy probation officers should wear or carry the recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever possible.

When using a portable recorder, the deputy probation officer shall record his/her name, TCPD identification number and the current date and time at the beginning and the end of the contact.

Deputy probation officers should document the existence of a recording in any report or other official record of the contact, including any instance where the recorder malfunctioned or the deputy probation officer deactivated the recording. Deputy probation officers should include the reason for deactivation.

#### 328.4.1 SUPERVISOR RESPONSIBILITIES

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

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### **328.5 ACTIVATION OF THE PORTABLE RECORDER**

This policy is not intended to describe every possible situation in which the portable recorder should be used, although there are many situations where its use is appropriate. Deputy probation officers should activate the recorder any time the member believes it would be appropriate or valuable to record an incident.

Deputy probation officers should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a deputy probation officer expected to jeopardize his/her safety in order to activate or stop a recording device.

#### **328.5.1 SURREPTITIOUS USE OF THE PORTABLE RECORDER**

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

Members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief Probation Officer or the authorized designee.

#### **328.5.2 CESSATION OF RECORDING**

Once activated, the portable recorder should remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.

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

### **328.6 PROHIBITED USE OF PORTABLE RECORDERS**

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

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

**Deputy Probation Officers are prohibited from using personally owned recording devices while on-duty without the express consent of his or her supervisor or a Deputy Chief.** Any

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Deputy Probation Officer who uses a personally owned recorder for department-related activities shall comply with the provisions of this policy, including retention and release requirements.

Recordings shall not be used by any member for the purpose of embarrassment, intimidation or ridicule. Any violation is subject to discipline.

### **328.6.1 PROHIBITED USE OF BIOMETRIC SURVEILLANCE SYSTEM**

The installation, activation, or use of biometric surveillance systems, including facial recognition, in connection with portable recorders is prohibited (Penal Code § 832.19).

### **328.7 RETENTION OF RECORDINGS**

Any time a Deputy Probation Officer records any portion of a contact that the member reasonably believes constitutes evidence in a criminal case, the member shall record the related case number and transfer the file in accordance with current procedure for storing digital files and document the existence of the recording in the related case report.

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

#### **328.7.1 RETENTION REQUIREMENTS**

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

### **328.8 REVIEW OF RECORDINGS**

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

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

Recorded files may also be reviewed:

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

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

## Public Recording of Law Enforcement Activity

### 329.1 PURPOSE AND SCOPE

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

### 329.2 POLICY

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

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

### 329.3 RECORDING LAW ENFORCEMENT ACTIVITY

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

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

### 329.4 DEPUTY PROBATION OFFICER RESPONSE

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

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

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

### **329.5 SUPERVISOR RESPONSIBILITIES**

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the deputy probation officer and:

- (a) Request any additional assistance as needed to ensure a safe environment.
- (b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.
- (c) When practicable, allow adequate time for individuals to respond to requests for a change of location or behavior.
- (d) Ensure that any enforcement, seizure or other actions are consistent with this policy and constitutional and state law.
- (e) Explain alternatives for individuals who wish to express concern about the conduct of Department members, such as how and where to file a complaint.

### **329.6 SEIZING RECORDINGS AS EVIDENCE**

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

- (a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.
  1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.
- (b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.
- (c) The person consents.
  1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.

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2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practicable. The recording party should be permitted to be present while the copy is being made, if feasible. Another way to obtain the evidence is to transmit a copy of the recording from a device to a department-owned device.

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

## Canines

### 330.1 PURPOSE AND SCOPE

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

### 330.2 POLICY

It is the policy of the Tehama County Probation Department that each handler and canine meet and maintain the appropriate proficiency to effectively and reasonably carry out legitimate objectives of the Probation Department.

### 330.3 ASSIGNMENT

The canine handlers should be assigned to assist and supplement the Field Service Division to function primarily in assist or cover assignments. However, they may be assigned by the Deputy Chief Probation Officer or Deputy Probation Officer IV to other functions based on the current operational needs.

The canine handler should generally not be assigned to handle routine matters that will take them out of service for extended periods of time and then only with the approval of a Deputy Chief Probation Officer.

### 330.4 CANINE COORDINATOR

The canine coordinator shall be appointed by and directly responsible to the Chief Probation Officer.

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

- (a) Review all canine use reports to ensure compliance with policy and to identify training issues and other needs of the program.
- (b) Maintain a liaison with the vendor kennel.
- (c) Maintain a liaison with command staff and functional supervisors.
- (d) Maintain a liaison with other agency canine coordinators.
- (e) Maintain accurate records to document canine activities.
- (f) Recommend and oversee the procurement of equipment and services for the handler and canine.
- (g) Schedule all canine-related activities.
- (h) Ensure the canine handler and canine are scheduled for regular training to maximize their capabilities.

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### **330.5 FIELD SERVICE / REQUESTS FOR CANINE TEAM**

Members are encouraged to request the use of a canine. All requests should be routed through their supervisor. Requests for a canine team from outside of the Field Service Division shall be reviewed by the Deputy Chief Probation Officer. In the event that a Deputy Chief or Chief is not immediately available the canine coordinator can make the decision.

#### **330.5.1 OUTSIDE AGENCY REQUEST**

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

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

#### **330.5.2 PUBLIC DEMONSTRATIONS**

All public requests for the canine team shall be approved by the Chief Probation Officer prior to making any resource commitment. The canine coordinator is responsible for obtaining resources and coordinating involvement in the demonstration to include proper safety protocols. The canine handler shall not demonstrate any apprehension work unless authorized to do so by the Chief Probation Officer.

### **330.6 APPREHENSION GUIDELINES**

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

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

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

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

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

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

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

### 330.6.1 PREPARATION FOR DEPLOYMENT

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

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

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

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

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

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

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### 330.6.2 WARNINGS AND ANNOUNCEMENTS

Unless it would increase the risk of injury or escape, a clearly audible warning announcing that a canine will be used if the suspect does not surrender should be made prior to releasing a canine. The handler should allow a reasonable time for a suspect to surrender and should quiet the canine momentarily to listen for any verbal response to the warning. If feasible, other members should be in a location opposite the warning to verify that the announcement can be heard. If available, warnings given in other languages should be used as necessary.

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

### 330.6.3 REPORTING DEPLOYMENTS, BITES AND INJURIES

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

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

Any unintended bite or injury caused by a canine, whether on or off-duty, shall be promptly reported to the canine coordinator. An administrative brief shall be provided to the Chief Probation Officer or designee as soon as practical.

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

### 330.7 NON-APPREHENSION GUIDELINES

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

- (a) Absent a change in circumstances that present an immediate threat to deputy probation officers, the canine or the public, such applications should be conducted on-

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leash or under conditions that minimize the likelihood the canine will bite or otherwise injure the individual if located.

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

### 330.7.1 ARTICLE DETECTION

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

### 330.7.2 NARCOTICS DETECTION

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

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

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

### 330.8 HANDLER SELECTION

The minimum qualifications for the assignment of canine handler include:

- (a) A deputy probation officer who is currently at a rank of Deputy Probation Officer II or higher and in good standing.
- (b) Residing in an adequately fenced, single-family residence (minimum 5-foot high fence with locking gates).
- (c) Adequate parking to accommodate a canine vehicle.
- (d) Living within 30 minutes travel time from the Tehama County limits.
- (e) Agreeing to be assigned to the position for a minimum of three years and can be extended a longer period with the approval of the Chief Probation Officer.
- (f) Be available for service during non-traditional working hours, including weekends and evenings or available for call-out under conditions specified by a Deputy Chief Probation Officer.
- (g) Successful completion of an armed officer academy.
- (h) Successful completion of a canine handlers course.

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### **330.9 HANDLER RESPONSIBILITIES**

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

The canine handler will be responsible for the following:

- (a) Except as required during appropriate deployment, the handler shall not expose the canine to any foreseeable and unreasonable risk of harm.
- (b) The handler shall maintain all department equipment under his/her control in a clean and serviceable condition.
- (c) When not in service, the handler shall maintain the canine vehicle in an area reviewed and approved by the canine coordinator and/or Deputy Chief.
- (d) When a handler is off-duty for an extended number of days, the assigned canine vehicle should be stored at the Tehama County Probation Department facility.
- (e) Handlers shall permit the canine coordinator to conduct spontaneous on-site inspections of affected areas of their homes as well as their canine vehicles to verify that conditions and equipment conform to this policy.
- (f) Any changes in the living status of the handler that may affect the lodging or environment of the canine shall be reported to the canine coordinator as soon as possible.
- (g) When off-duty, the canine shall be in a kennel provided by the County at the home of the handler. When a canine is kenneled at the handler's home, the gate shall be secured with a lock. When off-duty, the canine may be let out of the kennel while under the direct control of the handler.
- (h) The canine should be permitted to socialize in the home with the handler's family for short periods of time and under the direct supervision of the handler.
- (i) Under no circumstances will the canine be lodged at another location unless approved by the canine coordinator or Deputy Chief Probation Officer.
- (j) When off-duty, the handler shall not involve the canine in any law enforcement activity or official conduct unless approved in advance by the canine coordinator or Deputy Chief Probation Officer.
- (k) Whenever a canine handler is off-duty for an extended number of days, it may be necessary to temporarily relocate the canine. In those situations, the handler shall give reasonable notice to the canine coordinator so that appropriate arrangements can be made.

#### **330.9.1 CANINE IN PUBLIC AREAS**

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

- (a) A canine shall not be left unattended in any area to which the public may have access.

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- (b) When the canine vehicle is left unattended, all windows and doors shall be secured in such a manner as to prevent unauthorized access to the dog. The handler shall also ensure that the unattended vehicle remains inhabitable for the canine.

#### **330.10 HANDLER COMPENSATION**

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

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

#### **330.11 CANINE INJURY AND MEDICAL CARE**

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

All medical attention shall be rendered by the designated canine veterinarian, except during an emergency where treatment should be obtained from the nearest available veterinarian. All records of medical treatment shall be maintained in the handler's file. The probation department is responsible for any costs associated with the welfare and care of the canine.

#### **330.12 TRAINING**

Before assignment in the field, each canine team shall be trained and certified to meet current POST guidelines or other recognized and approved certification standards. Cross-trained canine teams or those canine teams trained exclusively for the detection of narcotics shall be trained and certified by the California Narcotic Canine Association (CNCA) or other recognized and approved certification standards established for their particular skills.

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

All canine training should be conducted while on-duty unless otherwise approved by the canine coordinator or Deputy Chief.

##### **330.12.1 CONTINUED TRAINING**

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

- (a) Canine teams should receive training as defined in the current contract with the Tehama County Probation Department canine training provider.
- (b) Canine handlers are encouraged to engage in additional training with approval of the canine coordinator.

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- (c) To ensure that all training is consistent, no handler, trainer or outside vendor is authorized to train to a standard that is not reviewed and approved by the canine coordinator.

### 330.12.2 FAILURE TO SUCCESSFULLY COMPLETE TRAINING

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

### 330.12.3 TRAINING RECORDS

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

### 330.12.4 TRAINING AIDS

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

### 330.12.5 CONTROLLED SUBSTANCE TRAINING AIDS

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

Access to controlled substance training aids shall be coordinated with the Tehama County Sheriff's Department or while training with the contracted canine training vendor.

All duly authorized peace officers acting in the performance of their official duties and any person working under their immediate direction, supervision or instruction are immune from prosecution under the Uniform Controlled Substance Act while providing substance abuse training or canine drug detection training.

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

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

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

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#### **330.12.6 CONTROLLED SUBSTANCE PROCEDURES**

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

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

#### **330.13 CANINE SEARCHES**

The residence or area to be searched must be secured prior to entry of the canine and handler. The canine handler should check for any potential hazards for the canine prior to initiating the canine search. Any specific areas where the canine alerts to narcotics will be pointed out by the canine handler to the requesting officer. It will be the requesting officer's responsibility to seize, record, and take control of any contraband that is located. Should narcotics be located, the canine handler will provide a supplemental report to the officer that requested assistance. The canine handler will complete and submit a report in the event there is property damage or injury to a person directly related to the canine search. The canine handler will document any search which uses the canine in the handler's file.

#### **330.14 RESTRICTIONS**

1. No persons shall work, train or handle the canine without proper certification or approval from the canine coordinator.

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2. Canine handlers shall not allow probation department personnel or civilians to tease or agitate the canine.
3. Prisoners should not be transported in the canine vehicle.
4. The canine shall not be used in conjunction with off-duty employment or narcotics detection.

### **330.15 CANINE RETIREMENT**

The determination of suitability for service shall be made by the Chief Probation Officer and canine coordinator, in conjunction with input from the handler. Some factors to be considered, but not limited to, will be:

1. The present performance and level of the canine.
2. The length of time that the canine can be expected to remain serviceable.
3. The canines health.

If the determination has been made to retire a canine from service, the handler presently assigned to the canine may be given the opportunity to assume ownership and liability of the canine. If the present handler does not desire to assume ownership of the canine, the Chief Probation Officer or canine coordinator will determine the final ownership of the canine.

### **330.16 INJURED HANDLER**

The following courses of action shall be considered by all officers in the event that the handler is injured and unable to command his/her canine. If the handler is downed, his/her canine in all probability will stand guard and prevent anyone from approaching his/her handler.

- (a) Do not rush in on the handler or canine.
- (b) The canine and handler train, work and live together. The canine's attitude may change if the handler is hurt or in danger.
- (c) Call to the handler. If he/she can, he/she will call the canine off.
- (d) If the handler does not respond, position the canine vehicle near the canine with all windows up and with an access door open. Using an authoritative voice, call the canine by name and command the canine to "kennel up"/ "load." Secure the canine in the vehicle.
- (e) If the canine appears agitated or aggressive, the assisting officer/individual(s) should contact another handler if possible, or request assistance from another law enforcement agency.

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## **GPS POLICY - ADULT DIVISION**

### **331.1 PURPOSE AND SCOPE**

This policy is to provide guidelines for the use of continuous electronic monitoring of adult offenders on probation, at the authority of the Chief Probation Officer, pursuant to Sections 1210.7 through 1210.16 of the California Penal Code.

### **331.2 POLICY**

The Adult Court, the Chief Probation Officer or designee has the sole authority discretion, pursuant to Section 1210.12 of the California Penal Code, to decide which persons shall be supervised using electronic monitoring.

Electronic monitoring shall only be used on those offenders where there is a need for enhanced monitoring and where public safety needs will be served by the enhanced monitoring. Consideration will be given to the following factors in determining the need for enhanced monitoring:

- Current offense
- Circumstances of offense
- Criminal history
- Victim concerns
- Compliance with conditions of probation
- Gang involvement
- Substance abuse
- Department designated risk assessment
- State authorized assessment tool for sex offenders - Pursuant to Section 1202.8 of the California Penal Code

No individual shall be required to participate in continuous electronic monitoring for any period of time longer than their proscribed term of probation. The Chief Probation Officer or designee may revoke, at anytime, at his/her discretion pursuant to Section 1210.13 of the California Penal Code, the monitoring of any individual. The electronic monitoring system shall be used for legitimate government purposes only. Only those persons designated by the Chief Probation Officer or designee are authorized to have access to, or use the information obtained through the use of electronic monitoring. No public or private agency or entity may operate a continuous electronic monitoring system as authorized by Section 1210.7 of the California Penal Code without a written contract from the Tehama County Probation Department. This may include GPS (continuous monitoring) for the management of high risk offenders.

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## *GPS POLICY - ADULT DIVISION*

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### 331.2.1 ELECTRONIC MONITORING DEVICES

Electronic monitoring may include the use of worldwide radio navigation system technology, known as the Global Position System (GPS). The Probation Department will utilize continuous electronic monitoring devices that have all of the following attributes:

1. A device that emits a signal as a person is moving or is stationary. The signal shall be capable of being received and tracked across large urban or rural areas, statewide, and being received within structures, vehicles, and other objects to the degree technically feasible in light of the associated costs, design, and other considerations as are determined relevant by the department.
2. A device that is designed to function 24 hours a day.
3. A device that is designed to be resistant or impervious to unintentional or willful damage.

### **331.3 PROCEDURE - (SUPERVISION STAFF DUTIES AND RESPONSIBILITIES)**

The probation officer shall utilize electronic monitoring for an offender's enhanced monitoring or sanction. Unless directly ordered by the court judicial officer, the probation officer will meet with a Supervising Probation Officer or Deputy Chief to determine if the offender is appropriate for electronic monitoring, to determine the length of time on the electronic monitor, and to make clear and appropriate recommendations to the Court.

The probation officer is responsible for insuring placement of the electronic monitor on the offender and the appropriate placement of any additional equipment. The assigned probation officer will also input all necessary information into the current system of the electronic monitor provider.

The electronic monitor/GPS system is designed to enhance the supervision of an offender. The system is not to be considered an immediate response surveillance program. The assigned probation officer will receive notification during normal business hours. Alerts received after normal business hours will be handled by the on-call officer. Appropriate action will be taken in accordance with the department policy.

During an anticipated absence from work, the supervising probation officer will arrange for continued monitoring of an offender through a Supervising Probation Officer or Deputy Chief.

Upon completion of the monitoring period the assigned probation officer is responsible for the removal of the electronic monitor and collection of the related equipment. The probation officer will also remove the offender from active supervision with the electronic monitor provider.

### 331.3.1 ACTUAL OR SUSPECTED VIOLATIONS OF PROBATION

The continuous electronic monitoring devices may have the capacity to immediately notify the department of violations, actual or suspected, of the conditions of probation that have been identified by the monitoring system deemed necessary with respect to an individual offender. Notification of actual or suspected violations of conditions of probation, including geographic locations and tampering, may be used as evidence to provide violation of conditions of probation. When a probation officer has reasonable cause to believe that the offender is not complying with

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## *GPS POLICY - ADULT DIVISION*

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the rules and conditions set forth for the use of continuous electronic monitoring as a supervision tool, the probation officer may without a warrant, arrest and take the offender into custody for a violation of probation.

## **GPS POLICY - JUVENILE DIVISION**

### **332.1 PURPOSE AND SCOPE**

This policy is to provide guidelines for the use of continuous electronic monitoring of juvenile offenders on probation, home supervision, or home commitment, at the authority of the Chief Probation Officer, pursuant to Sections 1210.7 through 1210.16 of the California Penal Code.

### **332.2 POLICY**

The Juvenile Court, the Chief Probation Officer or designee has the sole authority discretion, pursuant to Section 1210.12 of the California Penal Code, to decide which juvenile offenders shall be supervised using electronic monitoring.

Electronic monitoring shall only be used on those juvenile offenders where there is a need for enhanced monitoring and where public safety needs will be served by enhanced monitoring. Consideration will be given to the following factors in determining the need for enhanced monitoring:

- Current offense
- Circumstances of offense
- Criminal history
- Victim concerns
- Compliance with conditions of probation
- Gang involvement
- Substance abuse
- Department designated risk assessment
- State authorized assessment tool for sex offenders - Pursuant to Section 1202.8 of the California Penal Code

No individual shall be required to participate in continuous electronic monitoring for any period of time longer than their proscribed term of wardship. The Chief Probation Officer or designee may revoke, at anytime, at his/her discretion pursuant to Section 1210.13 of the California Penal Code, the monitoring of any individual. The electronic monitoring system shall be used for legitimate government purposes only. Only those persons designated by the Chief Probation Officer or designee are authorized to have access to, or use the information obtained through the use of electronic monitoring. No public or private agency or entity may operate a continuous electronic monitoring system as authorized by Section 1210.7 of the California Penal Code without a written contract from the Tehama County Probation Department. This may include GPS (continuous monitoring) for the management of high risk juvenile offenders.

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## *GPS POLICY - JUVENILE DIVISION*

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### 332.2.1 ELECTRONIC MONITORING DEVICES

Electronic monitoring may include the use of worldwide radio navigation system technology, known as Global Position System (GPS). The Probation Department will utilize continuous electronic monitoring devices that have all of the following attributes:

1. A device that emits a signal as a person is moving or is stationary. The signal shall be capable of being received and tracked across large urban or rural areas, statewide, and being received within structures, vehicles, and other objects to the degree technically feasible in light of the associated costs, design, and other considerations as are determined relevant by the department.
2. A device that is designed to function 24 hours a day.
3. A device that is designed to be resistant or impervious to unintentional or willful damage.

### **332.3 PROCEDURE (SUPERVISION STAFF DUTIES AND RESPONSIBILITIES)**

The probation officer shall utilize electronic monitoring for a juvenile offender's enhanced monitoring or sanction. Unless directly ordered by the Court's Judicial Officer, the probation officer will meet with a Supervising Probation Officer or Deputy Chief to determine if the juvenile offender is appropriate for electronic monitoring, to determine the length of time on the electronic monitor, and to make clear and appropriate recommendations to the Court. The juvenile offender must receive custody credits while on the electronic monitor and placement of the device must be accompanied by a court order.

The probation officer is responsible for insuring placement of the electronic monitor on the juvenile offender and the appropriate placement of any additional equipment. The assigned probation officer will also input all necessary information into the current system of the electronic monitor provider.

The electronic monitor/GPS system is designed to enhance the supervision of the juvenile offender. The system is not to be considered an immediate response surveillance program. The assigned probation officer will receive notification during normal business hours. Alerts received after normal business hours will be handled by the on-call officer. Appropriate action will be taken in accordance with department policy.

During an anticipated absence from work, the assigned probation officer will arrange for continued monitoring of a juvenile offender through a Supervising Probation Officer or Deputy Chief.

Upon completion of the monitoring period the assigned probation officer is responsible for the removal of the electronic monitor and collection of the related equipment. The assigned probation officer will also remove the juvenile offender from active supervision with the electronic monitor provider.

### 332.3.1 ACTUAL OR SUSPECTED VIOLATIONS OF PROBATION

The continuous electronic monitoring devices may have the capacity to immediately notify the department of violations, actual or suspected, of the conditions of probation that have been

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identified by the monitoring system deemed necessary with respect to an individual juvenile offender. Notification of actual or suspected violations of conditions of probation, including geographic locations and tampering, may be used as evidence to provide violation of conditions of probation. When a probation officer has reasonable cause to believe that the juvenile offender is not complying with the rules and conditions set forth for the use of continuous electronic monitoring as a supervision tool, the probation officer may without a warrant, arrest and take the juvenile offender into custody for a violation of probation.

## Chapter 4 - Equipment

## Department Owned and Personal Property

### 400.1 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.

### 400.2 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.

### 400.3 FILING CLAIMS FOR PERSONAL PROPERTY

Claims for reimbursement for damage or loss of personal property must be submitted to the employee's immediate supervisor via a memo. The supervisor may require a separate written report of the loss or damage.

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

Upon review by the Deputy Chief 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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## *Department Owned and Personal Property*

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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.

### **400.3.1 REPORTING REQUIREMENT**

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

A memo 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.

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

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.

### **400.4.1 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 Deputy Chief

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## Personal Communication Devices

### 401.1 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.

### 401.2 POLICY

The Tehama County Probation Department allows employees 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, employees 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 employee and the employee's PCD records to civil or criminal discovery or disclosure under applicable public records laws.

Employees who have questions regarding the application of this policy or the guidelines contained herein are encouraged to seek clarification from supervisory personnel. Employees will also be required to sign a "Notice of Potential Waiver of Privacy Rights" document, acknowledging their understanding of this policy.

### 401.3 PRIVACY POLICY

Employees shall have no expectation of privacy with regard to any communication made with or stored in or through PCDs issued by the Department and shall have no expectation of privacy in their location should the device be equipped with location detection capabilities. The use of any department-provided or funded PCD, computer, Internet service, telephone service or other wireless service while on-duty is without any expectation of privacy that the employee might otherwise have in any communication, including the content of any such communication. Communications or data reception on personal, password-protected, web-based e-mail accounts and any other services are subject to monitoring if department equipment is used.

In accordance with this policy, supervisors are authorized to conduct a limited administrative search of electronic files without prior notice, consent or a search warrant, on department-

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## *Personal Communication Devices*

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issued or personally owned PCDs that have been used to conduct department-related business. Administrative searches can take place for work-related purposes that may be unrelated to investigations of employee misconduct and, as practicable, will be done in the presence of the affected employee. Prior to conducting any search of personally owned devices, supervisors shall consult with the Chief Probation Officer. All such searches shall be fully documented in a written report. If at the conclusion of an Administrative search of either a personally owned or department issued PCD, misconduct is substantiated, discipline up to and including termination may be administered.

### **401.3.1 CALIFORNIA ELECTRONIC COMMUNICATIONS PRIVACY ACT (CALECPA)**

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

### **401.4 DEPARTMENT-ISSUED PCD**

Depending on a member's assignment and the needs of the position, the Department may, at its discretion, issue or fund a PCD. Department-issued or funded PCDs are provided as a convenience to facilitate on-duty performance only. Such devices and the associated telephone number shall remain the sole property of the Department and shall be subject to inspection or monitoring (including all related records and content) at any time without notice and without cause.

Unless a member is expressly authorized by the Chief Probation Officer or the authorized designee for off-duty use of the PCD, the PCD will either be secured in the workplace at the completion of the member's shift or will be turned off when leaving the workplace.

### **401.5 PERSONALLY OWNED PCD**

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

- (a) Permission to carry a personally owned PCD may be revoked if it is used contrary to provisions of this policy.
- (b) The Department accepts no responsibility for loss of or damage to a personally owned PCD.
- (c) The PCD and any associated services shall be purchased, used and maintained solely at the member's expense.
- (d) The device should not be used for work-related purposes except in exigent circumstances (e.g., unavailability of radio communications). Members will have a reduced expectation of privacy when using a personally owned PCD in the workplace

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and have no expectation of privacy with regard to any department business-related communication.

1. Members may use personally owned PCDs on-duty for routine administrative work as authorized by the Chief Probation Officer.
  - (e) The device shall not be utilized to record or disclose any business-related information, including photographs, video or the recording or transmittal of any information or material obtained or made accessible as a result of employment with the Department, without the express authorization of the Chief Probation Officer or the authorized designee.
  - (f) Use of a personally owned PCD while at work or for work-related business constitutes consent for the Department to access the PCD to inspect and copy data to meet the needs of the Department, which may include litigation, public records retention and release obligations and internal investigations. If the PCD is carried on-duty, members will provide the Department with the telephone number of the device.
  - (g) All work-related documents, emails, photographs, recordings or other public records created or received on a member's personally owned PCD should be transferred to the Tehama County Probation Department and deleted from the member's PCD as soon as reasonably practicable but no later than the end of the member's shift.

Except with prior express authorization from their supervisor, members are not obligated or required to carry, access, monitor or respond to electronic communications using a personally owned PCD while off-duty. If a member is in an authorized status that allows for appropriate compensation consistent with policy or existing memorandum of understanding or collective bargaining agreements, or if the member has prior express authorization from his/her supervisor, the member may engage in business-related communications. Should members engage in such approved off-duty communications or work, members entitled to compensation shall promptly document the time worked and communicate the information to their supervisors to ensure appropriate compensation. Members who independently document off-duty department-related business activities in any manner shall promptly provide the Department with a copy of such records to ensure accurate record keeping.

### **401.6 USE OF PCD**

The following protocols shall apply to all PCDs that are carried while on-duty or used to conduct department business:

- (a) All PCDs in the workplace shall be set to silent or vibrate mode.
- (b) A PCD may not be used to conduct personal business while on-duty, except for brief personal communications (e.g., informing family of extended hours). Members shall endeavor to limit their use of PCDs to authorized break times, unless an emergency exists.

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- (c) Members are prohibited from taking pictures, audio, or video recordings or making copies of any such picture or recording media unless it is directly related to official department business. Disclosure of any such information to any third party through any means, without the express authorization of the Chief Probation Officer or the authorized designee, may result in discipline.
- (d) Members will not access social networking sites for any purpose that is not official department business.
- (e) Using PCDs to harass, threaten, coerce or otherwise engage in inappropriate conduct with any third party is prohibited. Any member having knowledge of such conduct shall promptly notify a supervisor.

### **401.7 SUPERVISOR RESPONSIBILITIES**

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring that members under their command are provided appropriate training on the use of PCDs consistent with this policy.
- (b) Monitoring, to the extent practicable, PCD use in the workplace and taking prompt corrective action if a member is observed or reported to be improperly using a PCD.
  1. An investigation into improper conduct should be promptly initiated when circumstances warrant.
  2. Before conducting any administrative search of a member's personally owned device, supervisors should consult with the Chief Probation Officer or the authorized designee.

### **401.8 USE WHILE DRIVING**

The use of a PCD while driving can adversely affect safety, cause unnecessary distractions and present a negative image to the public. Deputy Probation Officers operating emergency vehicles should restrict the use of these devices to matters of an urgent nature and should, where practicable, stop the vehicle at an appropriate location to use the PCD.

Members who are operating department vehicles that are not authorized emergency vehicles shall not use a PCD while driving unless the device is specifically designed and configured to allow hands-free use. In an emergency, a wireless phone may be used to place an emergency call to the Department or other emergency services agency (Vehicle Code § 23123; Vehicle Code § 23123.5). Hands-free use should be restricted to business-related calls or calls of an urgent nature.

### **401.9 OFFICIAL USE**

Members are reminded that PCDs are not secure devices and conversations may be intercepted or overheard. Caution should be exercised while utilizing PCDs to ensure that sensitive information is not inadvertently transmitted. As soon as reasonably possible, members shall conduct sensitive or private communications on a land-based or other department communications network.

## Vehicle Use

### 402.1 PURPOSE AND SCOPE

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

### 402.2 POLICY

The Tehama County Probation Department provides vehicles for department-related business use and may be assigned based on its determination of operational efficiency, economic impact to the Department, requirements for tactical deployments and other considerations.

### 402.3 USE OF VEHICLES

County-owned vehicles shall only be used for official business and, when approved, for commuting to allow members to respond to department-related business outside their regular work hours. Members shall not operate a County-owned vehicle at any time when impaired by drugs and/or alcohol.

#### 402.3.1 FLEET VEHICLES

Members who use a fleet vehicle as part of their work assignment shall ensure that the vehicle is properly checked out, according to current procedures, prior to taking it into service.

Members shall be responsible for inspecting the interior and exterior of any checked out vehicle before taking the vehicle into service and at the conclusion of use. Any previously unreported damage, mechanical problems, unauthorized contents or other problems with the vehicle shall be promptly reported to a supervisor and documented as appropriate.

#### 402.3.2 AUTHORIZED PASSENGERS

Members operating County-owned vehicles shall not permit persons other than County members or persons required to be conveyed in the performance of duty, or as otherwise authorized, to ride as a passenger in their vehicle.

#### 402.3.3 PARKING

Except when responding to an emergency or other urgent official business requires otherwise, members driving County-owned vehicles should obey all parking regulations at all times.

County-owned vehicles should be parked in their assigned area. Members shall not park privately owned vehicles in any stall assigned to a County-owned vehicle or in any other areas of the parking lot that are not designated as a parking space unless authorized by a supervisor.

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### **402.3.4 INSPECTIONS**

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

When transporting any suspect, prisoner or arrestee, the transporting deputy probation officer shall search all areas of the vehicle that are accessible by the person before and after the person is transported.

### **402.3.5 PRIVACY**

All County-owned vehicles are subject to inspection and/or search at any time by a supervisor without notice and without cause. No member assigned to or operating such vehicle shall be entitled to any expectation of privacy with respect to the vehicle or its contents.

### **402.4 KEYS AND SECURITY**

Fleet vehicle keys are located in the front office for their assigned Division. Keys shall not be duplicated without supervisors approval.

Members assigned a permanent vehicle should be issued keys for their assigned vehicle.

The loss of any key shall be promptly reported in writing through the member's chain of command.

### **402.5 MAINTENANCE**

Members who are assigned a fleet vehicle are responsible for the cleanliness (exterior and interior) and overall maintenance of their assigned vehicles.

Members shall make weekly inspections of their assigned vehicles for service/maintenance requirements and damage. It is the assigned member's responsibility to ensure that his/her assigned vehicle is maintained according to the established service and maintenance schedule.

Supervisors shall make, at a minimum, monthly inspections of vehicles assigned to members under their command to ensure the vehicles are being maintained in accordance with policy.

#### **402.5.1 ACCESSORIES AND/OR MODIFICATIONS**

No modifications, additions or removal of any equipment or accessories shall be made to the vehicle without written permission from the Chief Probation Officer.

### **402.6 VEHICLE COLLISION, DAMAGE**

When a County-owned vehicle is involved in a traffic collision or otherwise incurs damage, the involved member shall promptly notify a supervisor. Any traffic collision report shall be filed with the agency having jurisdiction

The member involved in the collision shall complete the County's vehicle collision form. If the member is unable to complete the form, the supervisor shall complete the form.

Any damage to a vehicle that was not caused by a traffic collision shall be immediately reported during the shift in which the damage was discovered, documented in memorandum format and

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forwarded to their Division Deputy Chief. An administrative investigation may be initiated to determine if there is any vehicle abuse or misuse.

### **402.7 TOLL ROAD USAGE**

Law enforcement vehicles are not routinely exempted from incurring toll road charges.

To avoid unnecessary toll road charges, all members operating a County-owned vehicle upon the toll road shall adhere to the following:

- (a) All members operating a County-owned vehicle for any reason other than in response to an emergency shall pay the appropriate toll charge. Members may submit a request for reimbursement from the County for any toll fees incurred in the course of official business.
- (b) All members passing through a toll plaza or booth during a response to an emergency shall notify, in writing via the chain of command, the Chief Probation Officer as soon as practical explaining the circumstances.

### **402.8 ATTIRE AND APPEARANCE**

When operating any department vehicle while off-duty, members may dress in a manner appropriate for their intended activity. Whenever in view of or in contact with the public, attire and appearance, regardless of the activity, should be suitable to reflect positively upon the Department.

## Vehicle Maintenance

### 403.1 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.

### 403.2 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 via the chain of command to their Division Deputy Chief for direction.

#### 403.2.1 DAMAGE OR POOR PERFORMANCE

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

#### 403.2.2 SEVERE USE

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

### 403.3 VEHICLE EQUIPMENT

Certain items shall be maintained in all department vehicles for emergency purposes and to perform routine duties.

#### 403.3.1 FIELD VEHICLES

Members shall inspect the vehicle prior to use and ensure that the following equipment, at a minimum, is present in the vehicle:

- Vehicle use log
- Insurance information
- Gas card
- Fire extinguisher
- 1 First aid kit, CPR mask
- Protective gloves
- 1 Sharps container
- 1 Hazardous waste disposal bag
- 2 Traffic Safety Vest

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- OC Spray Advisement
- 1 Evidence collection kit

Any missing items should be replaced if possible.

### **403.4 VEHICLE REFUELING**

Absent emergency conditions or supervisor approval, members driving a fleet vehicle shall insure that the vehicle has a minimum of a half a tank of fuel prior to the end of its use. Vehicles shall only be refueled at the authorized location.

### **403.5 WASHING OF VEHICLES**

All County vehicles must be clean and presentable while in service, unless otherwise approved by a supervisor.

Employees using a vehicle shall remove any confidential information, trash or debris at the end of their shift.

## **Chapter 5 - Support Services**

## Property and Evidence

### 500.1 PURPOSE AND SCOPE

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

The Chief Probation Officer shall identify a person(s) to be the Property Officer for this Department. The Property Officer will be responsible for the care and custody of the temporary evidence room and items secured therein. The Property Officer will also be the liaison with the Tehama County Sheriff's Department Property Officer in matters of seized or packaging of evidence.

### 500.2 DEFINITIONS

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

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

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

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

**Found property** - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

### 500.3 SEIZING PROPERTY

When a deputy probation officer discovers property, including but not limited to contraband and indicia that a probationer is prohibited from having or that may be evidence of a crime, the deputy probation officer may seize the property. When practical, persons from whom property is seized or received shall be given a receipt. This can be accomplished by completing an Evidence/Property Processing Form. If no one is present to receive the receipt, the receipt should be left in a conspicuous place. The deputy probation officer shall retain such property in his/her possession until it is properly tagged/packaged and placed in the designated property locker or storage room along with the property form. Care shall be taken to maintain the chain of custody for all evidence. Anytime property is seized, a CR2 report containing all pertinent details surrounding the property seized to include but not limited to where the property was seized, a complete description of the property, and, from whom it was seized.

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A deputy probation officer may temporarily store seized property in an evidence locker for no longer than two working days, while processing and packaging the property. Any extension of the two working days must be authorized by a supervisor and the Property Officer must be notified.

The Property Officer shall maintain care and custody of the evidence room to include ensuring there is ample evidence forms and packaging material. The Property Officer shall monitor the Property Log Book and evidence lockers to ensure proper procedures are followed. Improperly packaged property will be brought to the attention of the booking deputy probation officer who will correct the deficiency. The Property Officer shall empty the evidence lockers as needed but no longer than once a week. All evidence shall be secured at the TCSD Evidence Room.

#### 500.3.1 PROPERTY REPORT NUMBER

To account for and track property, a Property Report Number will be drawn and listed on the Evidence/Property form, the property packaging label and or property tag, the Property Log Book, and the CR2 report. The Property Report Number will begin with the initial P, followed by the last two digits of the year then the incident number. For example the first report initiated in 2012 would be "P12-001". The incident number will reset to 001 on January 1 each year. The Property Report Number can be found on the "F" drive.

#### 500.3.2 FIREARMS

When a deputy probation officer confiscates a firearm, the deputy probation officer will conduct a CLETS check on the firearm to determine if it has been reported stolen. The findings and a copy of the CLETS report will be documented in the CR2 report. The TCPD Property Officer will secure all firearms at the TCSD Evidence Room and insure that the firearm is entered into the Automated Firearms System. Firearms will only be released by the TCSD Property Officer.

- All firearms shall be handled with the utmost of safety at all times.
- Ammunition shall be packaged and stored separately from firearms.

#### 500.3.3 EXPLOSIVES

Explosive that are known or suspected to be armed or live, other than fixed ammunition shall not be seized by this department. If a deputy probation officer discovers explosives or suspected explosives, the deputy probation officer will contact the allied agency having primary law enforcement jurisdiction and turn the scene over to them. All fireworks, railroad flares, fuses or ammunition that are considered safe can be seized and confiscated as any other property. The Property Officer shall coordinate with a California Department of Forestry representative for the proper disposal of fireworks, railroad flares, fuses or similar items. Ammunition will be secured at the TCSD Property Room.

Deputy probation officers who encounter a suspected explosive device shall notify their immediate supervisor as soon as practical.

#### 500.3.4 URINE SAMPLES

Urine samples may be disposed of by the testing deputy probation officer if:

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- The sample is negative for controlled or forbidden substance or
- The sample is positive for controlled or forbidden substance and the tested probationer voluntarily admits to the violation and signs a drug use admission form.

NOTE: As determined by the supervising deputy probation officer, a sample may be stored as evidence until such time the sample is no longer needed.

### **500.4 BOOKING PROPERTY AT TCSD EVIDENCE ROOM**

Deputy probation officers will follow TCSD Evidence Room procedures when booking property.

### **500.5 PROPERTY THAT DOES NOT NEED TO BE BOOKED AT THE TCSD EVIDENCE ROOM**

Alcohol and drug paraphernalia as described in Health and Safety Code § 11364 do not need to be booked into the TCSD Evidence Room if the property is to be used solely for a violation of probation. When such item(s) are located, the deputy probation officer should take a picture of the item in place and then confiscate the item. The picture will be attached to the CR2 report and used as evidence in the violation of probation hearing. The deputy probation officer will process these items in the same manner as any other seized property. The Property Officer shall later dispose of these items as prescribed by statute and or department procedures. If an alcoholic beverage is found open or not in its original container, the deputy probation officer should take a picture of the item and note for their report the physical characteristics of the beverage (odor and appearance). The beverage will then be disposed of at the scene and the empty container will be booked into evidence. The TCPD Property Officer shall later dispose of these items as prescribed by statute and or department procedures.

Syringes/ needles shall not be booked into evidence, but will be disposed of in an authorized bio-hazard container, similar to a "Sharps" container.

### **500.6 PROPERTY CONTROL**

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

#### **500.6.1 TEMPORARY REMOVAL OF EVIDENCE FOR COURT**

The TCSD Property Officer will release property to the requesting deputy probation officer for testimony in court. The deputy probation officer must contact the prosecuting attorney to determine if the property will be required for court. If the property is needed for court, the deputy probation officer will contact the TCSD Property Officer 24-48 hours in advance. When the property is ready to be picked up, the deputy probation officer shall respond to the TCSD property room to sign for the property and retain custody of the property. All property should remain sealed with the chain of custody intact. DO NOT open the property until directed by the prosecuting attorney or

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the court. Unless held by the court, the property will be returned to the TCSD property room and secured in an empty evidence locker.

#### 500.6.2 AUTHORITY TO RELEASE PROPERTY

The following persons may authorize the release of property that has been confiscated as evidence under the provisions of this policy.

- The case deputy probation officer or his/her supervisor
- The TCPD Property Officer
- Any person authorized by the Chief Probation Officer
- A magistrate
- The Prosecuting District Attorney's Office

To release property that is no longer needed as evidence, the releasing deputy probation officer must complete an Evidence Release Form. For property held at the TCSD property room, the form shall be forwarded to the TCSD Property Officer for release. Property held at the TCSD property room is released by appointment only. Persons whom the property is to be release to will be directed to phone the TCSD Property Officer to set up an appointment.

#### 500.6.3 DISPUTED CLAIMS TO PROPERTY

Occasionally more than one party may claim an interest in property being held by the Department, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

All parties should be advised that their claims are civil and in extreme situations, legal counsel for the Department may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

#### 500.7 DISPOSITION OF PROPERTY

All property not held for evidence in a pending criminal investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal.

Property shall not be disposed of until the period for appeals has closed and all appeals have been concluded.

#### 500.7.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)

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- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen, or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680)

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## Records Section

### 501.1 PURPOSE AND SCOPE

The Office Manager shall maintain the Department Records Section Procedures Manual on a current basis to reflect the procedures being followed within the Records Section. Policies and procedures that apply to all employees of this department are contained in this chapter.

#### 501.1.1 NUMERICAL FILING SYSTEM

Case reports are filed numerically within the Records Section by Records Section personnel.

Reports are numbered commencing with the last two digits of the current year followed by a sequential number beginning with 00001 starting at midnight on the first day of January of each year. As an example, case number YY-00001 would be the first new case beginning January 1 of a new year.

### 501.2 FILE ACCESS AND SECURITY

All reports including, but not limited to, initial, supplemental, follow-up, evidence, and all reports critical to a case shall be maintained in a secure area within the Records Section accessible only to authorized Records Section personnel. Access to report files after hours or when records personnel are otherwise not available may be obtained through a Deputy Chief.

Tehama County Probation Department employees shall not access, view or distribute, or allow anyone else to access, view or distribute any record, file or report, whether hard copy or electronic file format, except in accordance with department policy and with a legitimate law enforcement or business purpose or as otherwise permissible by law.

#### 501.2.1 REQUESTING ORIGINAL REPORTS

Generally, original reports shall not be removed from the Records Section. Should an original report be needed for any reason the requesting employee shall first obtain authorization from the Office Manager. All original reports removed from the Records Section shall be recorded on the Report Check-Out Log which shall constitute the only authorized manner by which an original report may be removed from the Records Section.

### 501.3 DETERMINATION OF FACTUAL INNOCENCE

In any case where a person has been arrested by a deputy probation officer of the Tehama County Probation Department and no accusatory pleading has been filed, the person arrested may petition the Department to destroy the related arrest records. Petitions should be forwarded to the Adult Division Deputy Chief. The Deputy Chief should promptly contact the prosecuting attorney and request a written opinion as to whether the petitioner is factually innocent of the charges (Penal Code § 851.8). Factual innocence means the accused person did not commit the crime.

Upon receipt of a written opinion from the prosecuting attorney affirming factual innocence, the Deputy Chief should forward the petition to the Intake and Supervision Units Supervisor and the County Counsel for review. After such review and consultation with the County Counsel, the

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Intake and Supervision Units Supervisor and the Deputy Chief shall decide whether a finding of factual innocence is appropriate.

Upon determination that a finding of factual innocence is appropriate, the Office Manager shall ensure that the arrest record and petition are sealed for later destruction and the required notifications are made to the California Department of Justice and other law enforcement agencies (Penal Code § 851.8).

The Deputy Chief should respond to a petition with the Department's decision within 45 days of receipt. Responses should include only the decision of the Department, not an explanation of the analysis leading to the decision.

### **501.4 ARREST WITHOUT FILING OF ACCUSATORY PLEADING**

The Chief Probation Officer should ensure a process is in place for when an individual is arrested and released and no accusatory pleading is filed so that the following occurs (Penal Code § 849.5; Penal Code § 851.6):

- (a) The individual is issued a certificate describing the action as a detention.
- (b) All references to an arrest are deleted from the arrest records of the probation department and the record reflects only a detention.
- (c) The California DOJ is notified.

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## Records Maintenance and Release

### 502.1 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.

### 502.2 POLICY

The Tehama County Probation Department is committed to providing public access to records in a manner that is consistent with the California Public Records Act (Government Code § 6250 et seq.).

### 502.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The Chief Probation Officer shall designate a Custodian of Records. The responsibilities of the Custodian of Records include but are not limited to:

- (a) Managing the records management system for the [Department/Office], including the retention, archiving, release, and destruction of [department/office] public records.
- (b) Maintaining and updating the [department/office] records retention schedule including:
  1. Identifying the minimum length of time the [Department/Office] must keep records.
  2. Identifying the [department/office] division responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of [department/office] public records as reasonably necessary for the protection of such records (Government Code § 6253).
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring a current schedule of fees for public records as allowed by law is available (Government Code § 6253).
- (g) Determining how the [department/office]'s website may be used to post public records in accordance with Government Code § 6253.
- (h) Ensuring that all [department/office] current standards, policies, practices, operating procedures, and education and training materials are posted on the [department/office] website in accordance with Penal Code § 13650.
- (i) Ensuring that public records posted on the [Department/Office] website meet the requirements of Government Code § 6253.10 including but not limited to posting in an open format where a record may be retrieved, downloaded, indexed, and searched by a commonly used internet search application.

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- (j) Ensuring that a list and description, when applicable, of enterprise systems (as defined by Government Code § 6270.5) is publicly available upon request and posted in a prominent location on the [Department/Office]'s website.

### **502.4 PROCESSING REQUESTS FOR PUBLIC RECORDS**

Any department member who receives a request for any record shall route the request to the Custodian of Records or the authorized designee.

#### **502.4.1 REQUESTS FOR RECORDS**

Any member of the public, including the media and elected officials, may access unrestricted records of this department, during regular business hours by submitting a written and signed request that reasonably describes each record sought and paying any associated fees (Government Code § 6253).

The processing of requests for any record is subject to the following (Government Code § 6253):

- (a) The Department is not required to create records that do not exist.
- (b) Victims of an incident or their authorized representative shall not be required to show proof of legal presence in the United States to obtain department records or information. If identification is required, a current driver's license or identification card issued by any state in the United States, a current passport issued by the United States or a foreign government with which the United States has a diplomatic relationship or current Matricula Consular card is acceptable (Government Code § 6254.30).
- (c) Either the requested record or the reason for non-disclosure will be provided promptly, but no later than 10 days from the date of request, unless unusual circumstances preclude doing so. If more time is needed, an extension of up to 14 additional days may be authorized by the Custodian of Records or the authorized designee. If an extension is authorized, the Department shall provide the requester written notice that includes the reason for the extension and the anticipated date of the response.
  1. When the request does not reasonably describe the records sought, the Custodian of Records shall assist the requester in making the request focused and effective in a way to identify the records or information that would be responsive to the request including providing assistance for overcoming any practical basis for denying access to the records or information. The Custodian of Records shall also assist in describing the information technology and physical location in which the record exists (Government Code § 6253.1).
  2. If the record requested is available on the department website, the requester may be directed to the location on the website where the record is posted. If the requester is unable to access or reproduce the record, a copy of the record shall be promptly provided.
- (d) Upon request, a record shall be provided in an electronic format utilized by the Department. Records shall not be provided only in electronic format unless specifically requested (Government Code § 6253.9).

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- (e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
  - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
- (f) If a record request is denied in whole or part, the requester shall be provided a written response that includes the statutory exemption for withholding the record or facts that the public interest served by nondisclosure outweighs the interest served by disclosure (Government Code § 6255). The written response shall also include the names, titles or positions of each person responsible for the denial.

### **502.5 RELEASE RESTRICTIONS**

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any Department record including traffic collision reports, are restricted 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; 18 USC § 2722).
- (b) Social Security numbers (Government Code § 6254.29).
- (c) Personnel records, medical records, and similar records which would involve an unwarranted invasion of personal privacy except as allowed by law (Government Code § 6254; Penal Code § 832.7; Penal Code § 832.8; Evidence Code § 1043 et seq.).
  - 1. Peace officer personnel records that are deemed confidential shall not be made public or otherwise released to unauthorized individuals or entities absent a valid court order.
  - 2. The identity of any deputy probation officer subject to any criminal or administrative investigation shall not be released without the consent of the involved deputy probation officer, prior approval of the Chief Probation Officer, or as required by law.
- (d) Victim information that may be protected by statutes, including victims of certain crimes who have requested that their identifying information be kept confidential, victims who are minors, and victims of certain offenses (e.g., sex crimes or human trafficking, Penal Code § 293). Addresses and telephone numbers of a victim or a witness to any arrested person or to any person who may be a defendant in a criminal action shall not be disclosed, unless it is required by law (Government Code § 6254; Penal Code § 841.5).

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1. Victims of certain offenses (e.g., domestic violence, sexual assault, stalking, human trafficking, adult abuse) or their representatives shall be provided, upon request and without charge, one copy of all incident report face sheets, one copy of all incident reports, or both, pursuant to the requirements and time frames of Family Code § 6228.
  2. Victims of sexual assault, upon written request, shall be provided a free copy of the initial crime report regardless of whether the report has been closed. Personal identifying information may be redacted (Penal Code § 680.2(b)).
- (e) Video or audio recordings created during the commission or investigation of the crime of rape, incest, sexual assault, domestic violence, or child abuse that depicts the face, intimate body part, or voice of a victim of the incident except as provided by Government Code § 6254.4.5.
- (f) Information involving confidential informants, intelligence information, information that would endanger the safety of any person involved, or information that would endanger the successful completion of the investigation or a related investigation. This includes analysis and conclusions of investigating deputy probation officers (Evidence Code § 1041; Government Code § 6254).
1. Absent a statutory exemption to the contrary or other lawful reason to deem information from reports confidential, information from unrestricted agency reports shall be made public as outlined in Government Code § 6254(f).
- (g) Local criminal history information including but not limited to arrest history and disposition, and fingerprints shall only be subject to release to those agencies and individuals set forth in Penal Code § 13300.
1. All requests from criminal defendants and their authorized representatives (including attorneys) shall be referred to the District Attorney, County Counsel, or the courts pursuant to Penal Code § 1054.5.
- (h) Certain types of reports involving but not limited to child abuse and molestation (Penal Code § 11167.5), elder and dependent abuse (Welfare and Institutions Code § 15633), and juveniles (Welfare and Institutions Code § 827).
- (i) Sealed autopsy and private medical information concerning a murdered child with the exceptions that allow dissemination of those reports to law enforcement agents, prosecutors, defendants, or civil litigants under state and federal discovery laws (Code of Civil Procedure §130).
- (j) Information contained in applications for licenses to carry firearms or other files that indicates when or where the applicant is vulnerable or which contains medical or psychological information (Government Code § 6254).
- (k) Traffic collision reports (and related supplemental reports) shall be considered confidential and subject to release only to the California Highway Patrol, Department of Motor Vehicles (DMV), other law enforcement agencies, and those individuals and their authorized representatives set forth in Vehicle Code § 20012.
- (l) Any record created exclusively in anticipation of potential litigation involving this Department (Government Code § 6254).

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- (m) Any memorandum from legal counsel until the pending litigation has been adjudicated or otherwise settled (Government Code § 6254.25).
- (n) Records relating to the security of the Department's electronic technology systems (Government Code § 6254.19).
- (o) A record of a civilian complaint, or the investigations, findings, or dispositions of that complaint if the complaint is frivolous, as defined by Code of Civil Procedure § 128.5, or if the complaint is unfounded (Penal Code § 832.7 (b)(8)).
- (p) Any other record not addressed in this policy shall not be subject to release where such record is exempt or prohibited from disclosure pursuant to state or federal law, including but not limited to provisions of the Evidence Code relating to privilege (Government Code § 6254).
- (q) Information connected with juvenile court proceedings or the detention or custody of a juvenile. Federal officials may be required to obtain a court order to obtain certain juvenile information (Welfare and Institutions Code § 827.9; Welfare and Institutions Code § 831).

### **502.6 SECURITY BREACHES**

The Office Manager shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired unencrypted personal identifying information stored in any Department information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Department determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following:

- Social security number
- Driver license number or California identification card number
- Account number, credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
- Medical information
- Health insurance information
- A user name or email address, in combination with a password or security question and answer that permits access to an online account

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### **502.7 SEALED RECORD ORDERS**

Sealed record orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once the record is sealed, members shall respond to any inquiry as though the record did not exist (Penal Code § 851.8; Welfare and Institutions Code § 781).

When an arrest record is sealed pursuant to Penal Code § 851.87, Penal Code § 851.90, Penal Code § 851.91, Penal Code § 1000.4, or Penal Code § 1001.9, the Office Manager shall ensure that the required notations on local summary criminal history information and police investigative reports are made. Sealed records may be disclosed or used as authorized by Penal Code § 851.92.

### **502.8 SECURITY BREACHES**

The Office Manager shall ensure notice is given anytime there is a reasonable belief an unauthorized person has acquired either unencrypted personal identifying information or encrypted personal information along with the encryption key or security credential stored in any Department information system (Civil Code § 1798.29).

Notice shall be given as soon as reasonably practicable to all individuals whose information may have been acquired. The notification may be delayed if the Department determines that notification will impede a criminal investigation or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

For the purposes of this requirement, personal identifying information includes an individual's first name or first initial and last name in combination with any one or more of the following:

- Social Security number
- Driver license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual
- Account number or credit or debit card number, in combination with any required security code, access code or password that would permit access to an individual's financial account
- Medical information
- Health insurance information
- A username or email address, in combination with a password or security question and answer that permits access to an online account
- Information or data collected by Automated License Plate Reader (ALPR) technology
- Unique biometric data

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### 502.8.1 FORM OF NOTICE

- (a) The notice shall be written in plain language, be consistent with the format provided in Civil Code § 1798.29 and include, to the extent possible, the following:
  - 1. The date of the notice.
  - 2. Name and contact information for the Tehama County Probation Department.
  - 3. A list of the types of personal information that were or are reasonably believed to have been acquired.
  - 4. The estimated date or date range within which the security breach occurred.
  - 5. Whether the notification was delayed as a result of a law enforcement investigation.
  - 6. A general description of the security breach.
  - 7. The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a Social Security number or a driver license or California identification card number.
- (b) The notice may also include information about what the Tehama County Probation Department has done to protect individuals whose information has been breached and may include information on steps that the person whose information has been breached may take to protect him/herself (Civil Code § 1798.29).
- (c) When a breach involves an online account, and only a username or email address in combination with either a password or security question and answer that would permit access to an online account, and no other personal information has been breached (Civil Code § 1798.29):
  - 1. Notification may be provided electronically or in another form directing the person to promptly change either his/her password or security question and answer, as applicable, or to take other appropriate steps to protect the online account with the Department in addition to any other online accounts for which the person uses the same username or email address and password or security question and answer.
  - 2. When the breach involves an email address that was furnished by the Tehama County Probation Department, notification of the breach should not be sent to that email address but should instead be made by another appropriate medium as prescribed by Civil Code § 1798.29.

### 502.8.2 MANNER OF NOTICE

- (a) Notice may be provided by one of the following methods (Civil Code § 1798.29):
  - 1. Written notice.
  - 2. Electronic notice if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 USC § 7001.
  - 3. Substitute notice if the cost of providing notice would exceed \$250,000, the number of individuals exceeds 500,000 or the Department does not have

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sufficient contact information. Substitute notice shall consist of all of the following:

- (a) Email notice when the Department has an email address for the subject person.
  - (b) Conspicuous posting of the notice on the department's webpage for a minimum of 30 days.
4. Notification to major statewide media and the California Information Security Office within the California Department of Technology.
- (b) If a single breach requires the Department to notify more than 500 California residents, the Department shall electronically submit a sample copy of the notification, excluding any personally identifiable information, to the Attorney General.

### **502.9 RELEASE OF AUDIO OR VIDEO RECORDINGS RELATED TO CRITICAL INCIDENTS**

Video and audio recordings related to critical incidents shall be released upon a proper public record request and subject to delayed release, redaction, and other release restrictions as provided by law (Government Code § 6254(f)(4)).

For purposes of this section, a video or audio recording relates to a critical incident if it depicts an incident involving the discharge of a firearm at a person by a deputy probation officer, or in which the use of force by a deputy probation officer against a person resulted in death or in great bodily injury (as defined by Penal Code § 243(f)(4)) (Government Code § 6254(f)(4)).

The Custodian of Records should work as appropriate with the Chief Probation Officer or the Internal Affairs Investigator supervisor in determining what recordings may qualify for disclosure when a request for a recording is received and if the requested recording is subject to delay from disclosure, redaction, or other release restrictions.

#### **502.9.1 DELAY OF RELEASE**

Disclosure of critical incident recordings during active criminal or administrative investigations may be delayed as follows if disclosure would substantially interfere with the investigation, such as by endangering the safety of a witness or a confidential source:

- (a) Disclosure may be delayed up to 45 days from the date the Department knew or reasonably should have known about the incident.
- (b) Delay of disclosure may continue after the initial 45 days and up to one year if the Department demonstrates that disclosure would substantially interfere with the investigation.
- (c) Any delay of disclosure longer than one year must be supported by clear and convincing evidence that disclosure would substantially interfere with the investigation (Government Code § 6254(f)(4)).

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### 502.9.2 NOTICE OF DELAY OF RELEASE

When there is justification to delay disclosure of a recording, the Custodian of Records shall provide written notice to the requester as follows (Government Code § 6254(f)(4)):

- (a) During the initial 45 days, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination that disclosure would substantially interfere with the investigation. The notice shall also include the estimated date for the disclosure.
- (b) When delay is continued after the initial 45 days, the Custodian of Records shall promptly provide the requester with written notice of the specific basis for the determination that the interest in preventing interference with an active investigation outweighs the public interest in the disclosure, and the estimated date for the disclosure. The Custodian of Records should work with the Chief Probation Officer in reassessing the decision to continue withholding a recording and notify the requester every 30 days.

Recordings withheld shall be disclosed promptly when the specific basis for withholding the recording is resolved.

### 502.9.3 REDACTION

If the Custodian of Records, in consultation with the Chief Probation Officer or authorized designee, determines that specific portions of the recording may violate the reasonable expectation of privacy of a person depicted in the recording, the Department should use redaction technology to redact portions of recordings made available for release. The redaction should not interfere with the viewer's ability to fully, completely, and accurately comprehend the events captured in the recording, and the recording should not otherwise be edited or altered (Government Code § 6254(f)(4)).

If any portions of a recording are withheld to protect the reasonable expectation of privacy of a person depicted in the recording, the Custodian of Records shall provide in writing to the requester the specific basis for the expectation of privacy and the public interest served (Government Code § 6254(f)(4)).

### 502.9.4 RECORDINGS WITHHELD FROM PUBLIC DISCLOSURE

If the reasonable expectation of privacy of a person depicted in the recording cannot adequately be protected through redaction, and that interest outweighs the public interest in disclosure, the Department may withhold the recording from the public, except that the recording, either redacted or unredacted, shall be disclosed promptly, upon request, to any of the following (Government Code § 6254(f)(4)):

- (a) The person in the recording whose privacy is to be protected, or his/her authorized representative.
- (b) If the person is a minor, the parent or legal guardian of the person whose privacy is to be protected.

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- (c) If the person whose privacy is to be protected is deceased, an heir, beneficiary, designated immediate family member, or authorized legal representative of the deceased person whose privacy is to be protected.

If the [Department/Office] determines that this disclosure would substantially interfere with an active criminal or administrative investigation, the Custodian of Records shall provide the requester with written notice of the specific basis for the determination and the estimated date of disclosure (Government Code § 6254(f)(4)).

The [Department/Office] may continue to delay release of the recording from the public for 45 days with extensions as provided in this policy (Government Code § 6254(f)(4)(A)).

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## Protected Information

### 503.1 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 Tehama 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.

#### 503.1.1 DEFINITIONS

Definitions related to this policy include:

**Protected information** - Any information or data that is collected, stored or accessed by members of the Tehama 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.

### 503.2 POLICY

Members of the Tehama 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.

### 503.3 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.

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- (f) Ensuring security practices and procedures are in place to comply with requirements applicable to protected information.

### **503.4 ACCESS TO PROTECTED INFORMATION**

Protected information shall not be accessed in violation of any law, order, regulation, user agreement, Tehama 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.

#### **503.4.1 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).

### **503.5 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 Office Manager 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 Records Section to ensure proper documentation of the release (see the Records Maintenance and Release Policy).

Protected information, such as Criminal Justice Information (CJI), which includes Criminal History Record Information (CHRI), should generally not be transmitted by radio, cellular telephone or any other type of wireless transmission to members in the field or in vehicles through any computer or electronic device, except in cases where there is an immediate need for the information to further an investigation or where circumstances reasonably indicate that the immediate safety of deputy probation officers, other department members or the public is at risk.

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

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### 503.5.1 REVIEW OF CRIMINAL OFFENDER RECORD

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

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

### **503.6 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.

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

### **503.7 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.

### **503.8 CALIFORNIA RELIGIOUS FREEDOM ACT**

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

## **Chapter 6 - Personnel**

## Recruitment and Selection

### 600.1 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 Tehama County Probation Department and that are promulgated and maintained by the Personnel Department.

### 600.2 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.

### 600.3 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 Tehama Personnel Department maintains standards for all positions.

The dilemma facing the Department is one of developing a job-valid and non-discriminatory set of policies which will allow it to lawfully exclude persons who do not meet the Tehama or State of California hiring standards. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which are used as a professional standard in background investigations.

The following standards have been adopted for public safety applicants:

#### 600.3.1 OPERATION OF A MOTOR VEHICLE

- (a) The ability to possess a valid California driver's license
- (b) The ability to drive safely
- (c) The ability to control a motor vehicle at high speeds
- (d) The ability to operate a motor vehicle in all types of weather conditions
- (e) The following shall be disqualifying:
  1. Receipt of three or more moving violations (or any single violation of a potential life threatening violation, such as reckless driving, speed contest, suspect of a pursuit, etc.) within three years prior to application. Moving violations for which there is a factual finding of innocence shall not be included.
  2. Involvement as a driver in two or more chargeable (at fault) collisions within three years prior to date of application.

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3. A conviction for driving under the influence of alcohol and/or drugs within three years prior to application or any two convictions for driving under the influence of alcohol and/or drugs.

### 600.3.2 INTEGRITY

- (a) Refusing to yield to the temptation of bribes, gratuities, payoffs, etc.
- (b) Refusing to tolerate unethical or illegal conduct on the part of other law enforcement personnel
- (c) Showing strong moral character and integrity in dealing with the public
- (d) Being honest in dealing with the public
- (e) The following shall be disqualifying:
  1. Any material misstatement of fact or significant admission during the application or background process shall be disqualifying, including inconsistent statements made during the initial background interview (Personal History Statement or Supplemental Questionnaire) or polygraph examination or discrepancies between this background investigation and other investigations conducted by other law enforcement agencies.
  2. Any forgery, alteration, or intentional omission of material facts on an official employment application document or sustained episodes of academic cheating.

### 600.3.3 CREDIBILITY AS A WITNESS IN A COURT OF LAW

- (a) The ability to give testimony in a court of law without being subject to impeachment due to his/her honesty or veracity (or their opposites) or due to prior felony conviction.
- (b) The following shall be disqualifying:
  1. Conviction of any criminal offense classified as a misdemeanor under California law within three years prior to application
  2. Conviction for two or more misdemeanor offenses under California law as an adult
  3. Conviction of any offense classified as a misdemeanor under California law while employed as a peace officer (including military police officers)
  4. Admission(s) of having committed any act amounting to a felony (including felony-misdemeanor offenses) under California law, as an adult, within five years prior to application or while employed as a peace officer (including military police officers)

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5. Admission(s) of administrative conviction of any act while employed as a peace officer (including military police officers) involving lying, falsification of any official report or document, or theft
6. Admission(s) of any act of domestic violence as defined by law, committed as an adult
7. Admission(s) of any criminal act, whether misdemeanor or felony, committed against children including but not limited to: molesting or annoying children, child abduction, child abuse, lewd and lascivious acts with a child, or indecent exposure. Acts of consensual unlawful intercourse accomplished between two minors shall not be included, unless more than four years difference in age existed at the time of the acts
8. Any history of actions resulting in civil lawsuits against the applicant or his/her employer may be disqualifying

### 600.3.4 DEPENDABILITY

- (a) Having a record of submitting reports on time and not malingering on calls, etc.
- (b) A record of being motivated to perform well
- (c) A record of dependability and follow through on assignments
- (d) A history of taking the extra effort required for complete accuracy in all details of work
- (e) A willingness to work the hours needed to complete a job
- (f) The following may be disqualifying:
  1. Missing any scheduled appointment during the process without prior permission
  2. Having been disciplined by any employer (including military) as an adult for abuse of leave, gross insubordination, dereliction of duty, or persistent failure to follow established policies and regulations
  3. Having been involuntarily dismissed (for any reason other than lay-off) from two or more employers as an adult
  4. Having held more than seven paid positions with different employers within the past four years, or more than 15 paid positions with different employers in the past ten years (excluding military). Students who attend school away from their permanent legal residence may be excused from this requirement
  5. Having undergone personal bankruptcy more than once, having current financial obligations for which legal judgments have not been satisfied, currently having wages garnished, or any other history of financial instability

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6. Resigning from any paid position without notice shall be disqualifying, except where the presence of a hostile work environment is alleged.
7. Having any outstanding warrant of arrest at time of application.

#### 600.3.5 LEARNING ABILITY

- (a) The ability to comprehend and retain information
- (b) The ability to recall information pertaining to laws, statutes, codes, etc.
- (c) The ability to learn and to apply what is learned
- (d) The ability to learn and apply the material, tactics and procedures that are required of a law enforcement officer
- (e) The following may be disqualifying:
  1. Being under current academic dismissal from any college or university where such dismissal is still in effect and was initiated within the past two years prior to the date of application
  2. Having been academically dismissed from any STC Core training or POST certified basic law enforcement academy wherein no demonstrated effort has been made to improve in the deficient areas, except: subsequent successful completion of another STC Core or POST basic law enforcement academy shall rescind this requirement

#### 600.3.6 PERSONAL SENSITIVITY

- (a) The ability to resolve problems in a way that shows sensitivity for the feelings of others.
- (b) Empathy
- (c) Discretion, not enforcing the law blindly
- (d) Effectiveness in dealing with people without arousing antagonism
- (e) The ability to understand the motives of people and how they will react and interact
- (f) The following may be disqualifying:
  1. Having been disciplined by any employer (including the military and/or any law enforcement training facility) for acts constituting racial, ethnic or sexual harassment or discrimination
  2. Uttering any epithet derogatory of another person's race, religion, gender, national origin or sexual orientation
  3. Having been disciplined by any employer as an adult for fighting in the workplace

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### 600.3.7 JUDGMENT UNDER PRESSURE

- (a) The ability to apply common sense during pressure situations
- (b) The ability to make sound decisions on the spot
- (c) The ability to use good judgment in dealing with potentially explosive situations
- (d) The ability to make effective, logical decisions under pressure
- (e) The following shall be disqualifying:
  - 1. Admission(s) of administrative conviction or criminal convictions for any act amounting to assault under color of authority or any other violation of federal or state Civil Rights laws
  - 2. Any admission(s) of administrative conviction or criminal conviction for failure to properly report witnessed criminal conduct committed by another law enforcement officer

### 600.3.8 ILLEGAL USE OR POSSESSION OF DRUGS

- (a) The following examples of illegal drug use or possession will be considered automatic disqualifiers for public safety applicants, with no exceptions:
  - 1. Any adult use or possession of a drug classified as a hallucinogenic within seven years prior to application for employment
  - 2. Any adult use or possession of marijuana within one year prior to application for employment
  - 3. Any other illegal adult use or possession of a drug not mentioned above (including cocaine) within three years prior to application for employment
  - 4. Any illegal adult use or possession of a drug while employed in any law enforcement capacity, military police, or as a student enrolled in college-accredited courses related to the criminal justice field
  - 5. Any adult manufacture or cultivation of a drug or illegal substance
  - 6. Failure to divulge to the Department any information about personal illegal use or possession of drugs
  - 7. Any drug test of the applicant, during the course of the hiring process, where illegal drugs are detected
- (b) The following examples of illegal drug use or possession will be considered in relationship to the overall background of that individual and may result in disqualification:
  - 1. Any illegal use or possession of a drug as a juvenile

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2. Any illegal adult use or possession of a drug that does not meet the criteria of the automatic disqualifiers specified above (e.g., marijuana use longer than one year ago or cocaine use longer than three years ago.)
3. Any illegal or unauthorized use of prescription medications

### **600.4 SELECTION PROCESS**

The Tehama County Probation Department shall actively strive to identify a diverse group of candidates that have in some manner distinguished themselves as being outstanding prospects. Minimally, the probation department should employ a comprehensive screening, background investigation and selection process that assesses cognitive and physical abilities and includes review and verification of the following:

- (a) A comprehensive application for employment (including previous employment, references, current and prior addresses, education, military record)
- (b) Driving record
- (c) Reference checks
- (d) Employment eligibility, including U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form I-9 and acceptable identity and employment authorization documents consistent with Labor Code § 1019.1. This required documentation should not be requested until a candidate is hired. This does not prohibit obtaining documents required for other purposes.
- (e) Information obtained from public internet sites
- (f) Financial history consistent with the Fair Credit Reporting Act (FCRA) (15 USC § 1681 et seq.)
- (g) Local, state and federal criminal history record checks
- (h) Lie detector test (when legally permissible) (Labor Code § 432.2)
- (i) Medical and psychological examination (may only be given after a conditional offer of employment)
- (j) Review board or selection committee assessment

#### **600.4.1 VETERAN'S PREFERENCE**

Qualifying veterans of the United States Armed Forces who receive a passing score on an entrance examination shall be ranked in the top rank of any resulting eligibility list. The veteran's preference shall also apply to a widow or widower of a veteran or a spouse of a 100 percent disabled veteran (Government Code § 18973.1).

### **600.5 BACKGROUND INVESTIGATION**

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

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The narrative report and any other relevant background information shall be shared with the psychological evaluator. Information shall also be shared with others involved in the hiring process if it is relevant to their respective evaluations (11 CCR 1953).

### **600.5.1 BACKGROUND INVESTIGATION UPDATE**

A background investigation update may, at the discretion of the Chief Probation Officer, be conducted in lieu of a complete new background investigation on a peace officer candidate who is reappointed within 180 days of voluntary separation from the Tehama County Probation Department or is transferred to a different department within the County as provided in 11 CCR 1953(f).

### **600.5.2 NOTICES**

Background investigators shall ensure that investigations are conducted and notices provided in accordance with the requirements of the FCRA and the California Investigative Consumer Reporting Agencies Act (15 USC § 1681d; Civil Code § 1786.16).

### **600.5.3 STATE NOTICES**

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

### **600.5.4 DOCUMENTING AND REPORTING**

The background investigator shall summarize the results of the background investigation in a narrative report that includes sufficient information to allow the reviewing authority to decide whether to extend a conditional offer of employment. The report shall not include any information that is prohibited from use, including that from social media sites, in making employment decisions. The report and all supporting documentation shall be included in the candidate's background investigation file (11 CCR 1953).

### **600.5.5 RECORDS RETENTION**

The background report and all supporting documentation shall be maintained in accordance with the established records retention schedule.

## **600.6 DISQUALIFICATION GUIDELINES**

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

- Age at the time the behavior occurred
- Passage of time
- Patterns of past behavior
- Severity of behavior
- Probable consequences if past behavior is repeated or made public

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- Likelihood of recurrence
- Relevance of past behavior to public safety employment
- Aggravating and mitigating factors
- Other relevant considerations

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

### **600.7 EMPLOYMENT STANDARDS**

All candidates shall meet the minimum standards required by state law (Government Code § 1029; Government Code § 1031; 11 CCR 1950 et seq.). Candidates will be evaluated based on merit, ability, competence, and experience, in accordance with the high standards of integrity and ethics valued by the Probation Department and the community. The California Commission on Peace Officer Standards and Training (POST) developed a Job Dimensions list, which is used as a professional standard in background investigations.

Validated, job-related, and nondiscriminatory employment standards shall be established for each job classification and shall minimally identify the training, abilities, knowledge, and skills required to perform the position's essential duties in a satisfactory manner. Each standard should include performance indicators for candidate evaluation. The Personnel Department should maintain validated standards for all positions.

#### **600.7.1 STANDARDS FOR DEPUTY PROBATION OFFICERS**

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

- (a) Free of any felony convictions
- (b) Citizen of the United States, or permanent resident alien eligible for and has applied for citizenship
- (c) At least 18 years of age
- (d) Fingerprinted for local, state and national fingerprint check
- (e) Good moral character as determined by a thorough background investigation (11 CCR 1953)
- (f) High school graduate, passed the GED or other high school equivalency test or obtained a two year, four year or advanced degree from an accredited or approved institution
- (g) Free from any physical, emotional or mental condition which might adversely affect the exercise of police powers (11 CCR 1954; 11 CCR 1955)
- (h) Candidates must also satisfy the POST selection requirements, including (11 CCR 1950 et seq.):
  1. Reading and writing ability assessment (11 CCR 1951)

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2. Oral interview to determine suitability for law enforcement service (11 CCR 1952)

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

## Standards of Conduct

### 601.1 PURPOSE AND SCOPE

This policy establishes standards of conduct that are consistent with the values and mission of this department and are expected of its 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 member conduct. Members are also subject to provisions contained throughout this manual as well as any additional guidance on conduct that may be disseminated by the Department or the member's supervisors.

This policy applies to all employees (full- and part-time), and volunteers.

### 601.2 DISCIPLINE POLICY

The continued employment of every employee of this department shall be based on conduct that reasonably conforms to the guidelines set forth herein. Failure of any employee to meet the guidelines set forth in this policy, whether on-duty or off-duty, may be cause for disciplinary action, up to and including termination.

An employee's off-duty conduct shall be governed by this policy to the extent that it is related to act(s) that may materially affect or arise from the employee's ability to perform official duties, embarrass the agency, or to the extent that it may be indicative of unfitness for his/her position.

### 601.3 CONDUCT WHICH MAY RESULT IN DISCIPLINE

The following list of causes for disciplinary action constitutes a portion of the disciplinary standards of this department. This list is not intended to cover every possible type of misconduct and does not preclude the recommendation of disciplinary action for specific action or inaction that is detrimental to efficient department service:

#### 601.3.1 ATTENDANCE

- (a) Leaving job to which assigned during duty hours without reasonable excuse and proper permission and approval.
- (b) Unexcused or unauthorized absence or tardiness on scheduled day(s) of work.
- (c) Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.
- (d) Failure to notify the Department within 24 hours of any change in residence address or contact phone number.

#### 601.3.2 CONDUCT

- (a) Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily injury on another.

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- (b) Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment without first notifying the Chief Probation Officer of such action.
- (c) 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.
- (d) Engaging in horseplay resulting in injury or property damage or the reasonable possibility thereof.
- (e) Unauthorized possession of, loss of or damage to department property or the property of others, or endangering it through unreasonable carelessness, maliciousness, or negligence.
- (f) Failure of any employee to promptly and fully report activities on their own part or the part of any other employee where such activities may result in criminal prosecution or discipline under this policy.
- (g) Failure of any employee to promptly and fully report activities that have resulted in official contact by any other law enforcement agency.
- (h) Using or disclosing one's status as an employee with the Department in any way that could reasonably be perceived as an attempt to gain influence or authority for non-department business or activity.
- (i) The use of any information, photograph, video or other recording obtained or accessed as a result of employment with the Department for personal or financial gain or without the express authorization of the Chief Probation Officer or a designee may result in discipline under this policy.
- (j) Prior to obtaining a restraining order against an individual encountered in the line of duty the Chief Probation Officer shall be notified.
- (k) Discourteous, disrespectful or discriminatory treatment of any member of the public or any member of this department.
- (l) Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
- (m) Engaging in consensual on-duty sexual relations including, but not limited to, sexual intercourse, excessive displays of public affection or other sexual contact.

### 601.3.3 DISCRIMINATION

- (a) Discriminate against any person because of age, race, color, creed, religion, sex, sexual orientation, national origin, ancestry, marital status, physical or mental disability or medical condition.

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### 601.3.4 INTOXICANTS

- (a) Reporting for work or being at work following the use of intoxicants where such use may impair the employee's ability to perform assigned duties or where there is an immediate suspicion of ineffectiveness during public contact resulting from the use of intoxicants
- (b) Unauthorized possession or use of, or attempting to bring intoxicants to the work site, except as authorized in the performance of an official assignment. An employee who is authorized to consume intoxicants is not permitted to do so to such a degree that it may impair on-duty performance
- (c) Reporting for work or being at work following the use of a "controlled substance" or any drug (whether legally prescribed or otherwise) where such use may impair the employee's ability to perform assigned duties
- (d) Unauthorized possession, use of, or attempting to bring controlled substance or other illegal drug to any work site

### 601.3.5 PERFORMANCE

- (a) Unauthorized sleeping during on-duty time or assignments.
- (b) Careless workmanship resulting in spoilage or waste of materials or work of an unacceptable nature as applicable to the nature of the work assigned.
- (c) Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or instructions of supervisors without a reasonable and bona fide excuse.
- (d) Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- (e) Disobedience or insubordination to constituted authorities, including refusal or deliberate failure to carry out or follow lawful directives and orders from any supervisor or person in a position of authority.
- (f) The wrongful or unlawful exercise of authority on the part of any employee for malicious purpose, personal gain, willful deceit or any other improper purpose.
- (g) Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of the Department or subverts the good order, efficiency and discipline of the Department or which would tend to discredit any member thereof.
- (h) Knowingly making false, misleading or malicious statements that are reasonably calculated to harm or destroy the reputation, authority or official standing of the Department or members thereof.

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- (i) The falsification of any work-related records, the making of misleading entries or statements with the intent to deceive, or the willful and unauthorized destruction and/or mutilation of any department record, book, paper or document.
- (j) Wrongfully loaning, selling, giving away or appropriating any department property for the personal use of the employee or any unauthorized person.
- (k) The unauthorized use of any badge, uniform, identification card or other department equipment or property for personal gain or any other improper purpose.
- (l) The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties.
- (m) Any knowing or negligent violation of the provisions of the department manual, operating procedures or other written directive of an authorized supervisor. The Department shall make this manual available to all employees. Employees shall familiarize themselves with this manual and be responsible for compliance with each of the policies contained herein.
- (n) Work-related dishonesty, including attempted or actual theft of department property, services or the property of others, or the unauthorized removal or possession of department property or the property of another person.
- (o) Criminal, dishonest, infamous or disgraceful conduct adversely affecting the employee/employer relationship, whether on- or off-duty.
- (p) Failure to disclose or misrepresenting material facts, or the making of 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.
- (q) Failure to take reasonable action while on-duty and when required by law, statute, resolution or approved department practices or procedures.
- (r) Associating with or joining a criminal gang, organized crime and/or criminal syndicate when a department member knew or reasonably should have known 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 the Department.
- (s) Offer or acceptance of a bribe or gratuity.
- (t) Misappropriation or misuse of public funds.
- (u) Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
- (v) Substantiated, active, continuing association on a personal rather than official basis with a person or persons who engage in or are continuing to engage in serious violations of state or federal laws, where the employee has or reasonably should

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have knowledge of such criminal activities, except where specifically directed and authorized by the Department.

- (w) Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty, on department property or while in any way representing him/herself as a member of this agency.
- (x) Engaging in political activities during assigned working hours.
- (y) Violating any misdemeanor or felony statute.
- (z) Any other on-duty or off-duty conduct which any employee knows or reasonably should know is unbecoming a member of the Department or which is contrary to good order, efficiency or morale, or which tends to reflect unfavorably upon the Department or its members.
- (aa) Any failure or refusal of an employee to properly perform the function and duties of an assigned position.
- (ab) Failure to maintain required and current licenses (e.g. driver's license) and certifications (e.g., first aid).
- (ac) 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.
- (ad) Engaging in any activity that could lead to the embarrassment of the agency and or degradation of the public trust.

### 601.3.6 SAFETY

- (a) Failure to observe posted rules, signs and written or oral safety instructions while on duty and/or within department facilities or to use required protective clothing or equipment.
- (b) Knowingly failing to report any on-the-job or work-related accident or injury within 24 hours.
- (c) Substantiated employee record of unsafe or improper driving habits or actions in the course of employment.
- (d) Failure to maintain good physical condition sufficient to adequately and safely perform law enforcement duties.
- (e) Any personal action contributing to involvement in a preventable traffic collision, or other unsafe or improper driving habits or actions in the course of employment.
- (f) Violating departmental safety standards or safe working practices.

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### 601.3.7 SECURITY

- (a) Unauthorized, intentional release of designated confidential information, materials, data, forms or reports

### 601.3.8 SUPERVISION RESPONSIBILITY

- (a) Failure of a supervisor to take appropriate action to ensure that employees adhere to the policies and procedures of this department and the actions of all personnel comply with all laws
- (b) Failure of a supervisor to timely report known misconduct of an employee to his or her immediate supervisor or to document such misconduct appropriately or as required by policy
- (c) The unequal or disparate exercise of authority on the part of a supervisor toward any employee for malicious or other improper purpose

## **601.4 INVESTIGATION OF DISCIPLINARY ALLEGATIONS**

Regardless of the source of an allegation of misconduct, all such matters will be investigated in accordance with Personnel Complaint Procedure Policy Manual § 608. Pursuant to Government Code §§ 3304(d) and 3508.1, the investigation should be completed within one year of the discovery of the allegation unless such investigation falls within one of the exceptions delineated within those provisions.

### 601.4.1 WRITTEN REPRIMANDS

Any employee wishing to formally appeal a written reprimand shall follow their most current bargaining unit grievance procedure.

## **601.5 POST INVESTIGATION PROCEDURES**

### 601.5.1 DEPUTY CHIEF RESPONSIBILITIES

Upon receipt of any completed personnel investigation, the Deputy Chief of the involved employee shall review the entire investigative file, the employee's personnel file and any other relevant materials.

The Deputy Chief may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

- (a) Prior to forwarding recommendations to the Chief Probation Officer, the Deputy Chief may return the entire investigation to the assigned AI investigator or supervisor for further investigation or action
- (b) When forwarding any written recommendation to the Chief Probation Officer, the Deputy Chief shall include all relevant materials supporting the recommendation. Actual copies of an employee's existing personnel file need not be provided and may be incorporated by reference

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### 601.5.2 RESPONSIBILITIES OF THE CHIEF PROBATION OFFICER

Upon receipt of any written recommendation for disciplinary action, the Chief Probation Officer shall review the recommendation and all accompanying materials.

The Chief Probation Officer may modify any recommendation and/or may return the file to the Deputy Chief for further investigation or action.

Once the Chief Probation Officer is satisfied that no further investigation or action is required by staff, the Chief Probation Officer shall determine the amount of discipline, if any, to be recommended.

In the event disciplinary action is recommended, the Chief Probation Officer shall provide the employee with written (*Skelly*) notice of the following information within one year of the date of the discovery of the alleged misconduct (absent an exception set forth in Government Code § 3304(d) or Government Code § 3508.1):

- (a) Specific charges set forth in separate counts, describing the conduct underlying each count.
- (b) A separate recommendation of proposed discipline for each charge.
- (c) A statement that the employee has been provided with or given access to all of the materials considered by the Chief Probation Officer in recommending the proposed discipline.
- (d) An opportunity to respond orally or in writing to the Chief Probation Officer within ten days of receiving the *Skelly* notice.
  1. Upon a showing of good cause by the employee, the Chief Probation Officer may grant a reasonable extension of time for the employee to respond.
  2. If the employee elects to respond orally, the presentation shall be recorded by the Department. Upon request, the employee shall be provided with a copy of the recording.

### 601.6 EMPLOYEE RESPONSE

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief Probation Officer after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) This *Skelly* 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 *Skelly* 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 Chief Probation Officer to consider.
- (d) In the event that the Chief Probation Officer elects to cause further investigation to be conducted, the employee shall be provided with the results of such subsequent investigation prior to the imposition of any discipline.
- (e) The employee may thereafter have the opportunity to further respond orally or in writing to the Chief Probation Officer on the limited issues of information raised in any subsequent materials.
- (f) Once the employee has completed his/her *Skelly* response or, if the employee has elected to waive any such response, the Chief Probation Officer shall consider all information received in regard to the recommended discipline. Once the Chief Probation Officer determines that discipline will be imposed, a timely written decision shall be provided to the employee within 30 days, imposing, modifying or rejecting the recommended discipline. In the event of a termination, the final notice of discipline shall also inform the employee of the reason for termination and the process to receive all remaining fringe and retirement benefits.
- (g) Once the Chief Probation Officer has issued a written decision, the discipline shall become effective.

### **601.7 RESIGNATIONS/RETIREMENTS PRIOR TO DISCIPLINE**

In the event that an employee tenders a written retirement or resignation prior to the imposition of discipline, it shall be noted in the file.

The tender of a retirement or resignation by itself may or may not serve as grounds for the termination of pending discipline.

### **601.8 POST SKELLY PROCEDURE**

In situations resulting in the imposition of a suspension, punitive transfer, demotion, termination of a non-probationary employee, the employee shall have the right to an evidentiary appeal of the Chief Probation Officer's imposition of discipline pursuant to the operative Memorandum of Understanding (MOU) or collective bargaining agreement and personnel rules.

During any post-Skelly administrative appeal, evidence that a deputy probation 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 penalty. (Government Code § 3305.5).

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### **601.9 DISCIPLINARY ACTION AGAINST PROBATIONARY EMPLOYEES**

In the event that a probationary employee is terminated solely for unsatisfactory performance or the failure to meet department standards, the employee shall have no right to appeal and the following shall be considered:

- (a) Termination of a probationary employee for such failure to pass probation shall be so reflected in the employee's personnel file
- (b) In the event that a probationary employee is disciplined or terminated for misconduct, the employee shall only be entitled to appeal the decision in the same manner as set forth in the *Skelly* procedure as set forth above. This appeal process may be held prior to or within a reasonable time after the imposition of discipline
- (c) At all times during any investigation of allegations of misconduct involving a probationary deputy probation officer, such deputy probation officer shall be afforded all procedural rights set forth in Government Code § 3303 and applicable Department policies
- (d) A probationary employee's appeal of disciplinary action shall be limited to an opportunity for the employee to attempt to establish that the underlying allegations should not be sustained. Nothing in this policy or procedure, however, should be construed to establish any sort of property interest in or right to the employee's continuation of employment
- (e) The burden of proof for any probationary employee's appeal of disciplinary action shall rest with the employee and will require proof by a preponderance of the evidence
- (f) In the event that a probationary employee meets his or her burden of proof in such a disciplinary appeal, the Department shall remove all reference to the underlying allegations of misconduct from the employee's personnel file
- (g) In the event that a probationary employee fails to meet his or her burden of proof in such a disciplinary appeal, the employee shall have no further right to appeal beyond the Chief Probation Officer

## Anti-Retaliation

### 602.1 PURPOSE AND SCOPE

This policy prohibits retaliation against members who identify workplace issues, such as fraud, waste, abuse of authority, gross mismanagement or any inappropriate conduct or practices, including violations that may pose a threat to the health, safety or well-being of members.

This policy does not prohibit actions taken for nondiscriminatory or non-retaliatory reasons, such as discipline for cause.

These guidelines are intended to supplement and not limit members' access to other applicable remedies. Nothing in this policy shall diminish the rights or remedies of a member pursuant to any applicable federal law, provision of the U.S. Constitution, law, ordinance or memorandum of understanding.

### 602.2 POLICY

The Tehama County Probation Department has a zero tolerance for retaliation and is committed to taking reasonable steps to protect from retaliation members who, in good faith, engage in permitted behavior or who report or participate in the reporting or investigation of workplace issues. All complaints of retaliation will be taken seriously and will be promptly and appropriately investigated.

### 602.3 RETALIATION PROHIBITED

No member may retaliate against any person for engaging in lawful or otherwise permitted behavior; for opposing a practice believed to be unlawful, unethical, discriminatory or retaliatory; for reporting or making a complaint under this policy; or for participating in any investigation related to a complaint under this or any other policy.

Retaliation includes any adverse action or conduct, including but not limited to:

- Refusing to hire or denying a promotion.
- Extending the probationary period.
- Unjustified reassignment of duties or change of work schedule.
- Real or implied threats or other forms of intimidation to dissuade the reporting of wrongdoing or filing of a complaint, or as a consequence of having reported or participated in protected activity.
- Taking unwarranted disciplinary action.
- Spreading rumors about the person filing the complaint or about the alleged wrongdoing.
- Shunning or unreasonably avoiding a person because he/she has engaged in protected activity.

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### **602.4 COMPLAINTS OF RETALIATION**

Any member who feels he/she has been retaliated against in violation of this policy should promptly report the matter to any supervisor, Deputy Chief, Chief Probation Officer or the County Personnel Director.

Members shall act in good faith, not engage in unwarranted reporting of trivial or minor deviations or transgressions, and make reasonable efforts to verify facts before making any complaint in order to avoid baseless allegations. Members shall not report or state an intention to report information or an allegation knowing it to be false, with willful or reckless disregard for the truth or falsity of the information or otherwise act in bad faith.

Investigations are generally more effective when the identity of the reporting member is known, thereby allowing investigators to obtain additional information from the reporting member. However, complaints may be made anonymously. All reasonable efforts shall be made to protect the reporting member's identity. However, confidential information may be disclosed to the extent required by law or to the degree necessary to conduct an adequate investigation and make a determination regarding a complaint. In some situations, the investigative process may not be complete unless the source of the information and a statement by the member is part of the investigative process.

### **602.5 SUPERVISOR RESPONSIBILITIES**

Supervisors are expected to remain familiar with this policy and ensure that members under their command are aware of its provisions.

The responsibilities of supervisors include, but are not limited to:

- (a) Ensuring complaints of retaliation are investigated as provided in the Personnel Complaints Policy.
- (b) Receiving all complaints in a fair and impartial manner.
- (c) Documenting the complaint and any steps taken to resolve the problem.
- (d) Acknowledging receipt of the complaint, notifying the Chief Probation Officer via the chain of command and explaining to the member how the complaint will be handled.
- (e) Taking appropriate and reasonable steps to mitigate any further violations of this policy.
- (f) Monitoring the work environment to ensure that any member making a complaint is not subjected to further retaliation.
- (g) Periodic follow-up with the complainant to ensure that retaliation is not continuing.
- (h) Not interfering with or denying the right of a member to make any complaint.
- (i) Taking reasonable steps to accommodate requests for assignment or schedule changes made by a member who may be the target of retaliation if it would likely mitigate the potential for further violations of this policy.

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### **602.6 RESPONSIBILITIES**

The Chief Probation Officer should communicate to all supervisors the prohibition against retaliation.

Supervisors and Deputy Chiefs shall treat all complaints as serious matters and shall ensure that prompt actions take place, including but not limited to:

- (a) Communicating to all members the prohibition against retaliation.
- (b) The timely review of complaint investigations.
- (c) Remediation of any inappropriate conduct or condition and instituting measures to eliminate or minimize the likelihood of recurrence.
- (d) The timely communication of the outcome to the complainant.

### **602.7 WHISTLE-BLOWING**

California law protects members who (Labor Code § 1102.5; Government Code § 53296 et seq.):

- (a) Report a violation of a state or federal statute or regulation to a government or law enforcement agency, including the member's supervisor or any other member with the authority to investigate the reported violation.
- (b) Provide information or testify before a public body if the member has reasonable cause to believe a violation of law occurred.
- (c) Refuse to participate in an activity that would result in a violation of a state or federal statute or regulation.
- (d) File a complaint with a local agency about gross mismanagement or a significant waste of funds, abuse of authority or a substantial and specific danger to public health or safety. Members shall exhaust all available administrative remedies prior to filing a formal complaint.
- (e) Are family members who have engaged in any protected acts described above.

Members are encouraged to report any legal violations through the chain of command (Labor Code § 1102.5).

Members who believe they have been the subject of retaliation for engaging in such protected behaviors should promptly report it to a supervisor. Supervisors shall ensure that a Deputy Chief and Chief Probation Officer are notified as soon as practicable as pursuant to the Personnel Complaints Policy.

#### **602.7.1 DISPLAY OF WHISTLE-BLOWER LAWS**

The Department shall display a notice to members regarding their rights and responsibilities under the whistle-blower laws, including the whistle-blower hotline maintained by the Office of the Attorney General (Labor Code § 1102.8).

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### **602.8 RECORDS RETENTION AND RELEASE**

The Office Manager shall ensure that documentation of investigations is maintained in accordance with the established records retention schedules.

### **602.9 TRAINING**

The policy should be reviewed with each new member.

All members should receive periodic refresher training on the requirements of this policy.

## Reporting of Employee Convictions

### 603.1 PURPOSE AND SCOPE

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

The Office Manager shall submit in a timely manner a notice to the Department of Justice (DOJ) of any appointment or termination regarding any member of this department.

### 603.2 DOMESTIC VIOLENCE CONVICTIONS, OUTSTANDING WARRANTS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of, or having an outstanding warrant for, certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC § 922; Penal Code § 29805).

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

### 603.3 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.

### 603.4 REPORTING PROCEDURE

All members of this department and all retired deputy probation officers with an identification card and concealed carry endorsement issued by the Department shall notify their immediate supervisor (or the Chief Probation Officer in the case of retired deputy probation officer ) within 3 work days 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.

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All members and all retired deputy probation officers with an identification card and concealed carry endorsement issued by the Department shall further notify their immediate supervisor (or the Chief Probation Officer in the case of retired deputy probation officer ) within 3 work days in writing if the member or retiree becomes the subject of a domestic violence restraining order or similar court order.

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

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

### **603.5 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. Each employee shall seek relief from firearm restrictions on their own time and through their own resources.

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

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

## Drug- and Alcohol-Free Workplace

### 604.1 PURPOSE AND SCOPE

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

### 604.2 POLICY

It is the policy of this department to provide a drug- and alcohol-free workplace for all members.

### 604.3 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. Such use shall not be tolerated (41 USC § 8103).

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 their Deputy Chief or appropriate supervisor as soon as the member is aware that he/she will not be able to report to work. If the member is unable to make the notification, every effort should be made to have a representative contact the supervisor in a timely manner. If the member is adversely affected while on-duty, he/she shall be immediately removed and released from work (see Work Restrictions in this policy).

#### 604.3.1 USE OF MEDICATIONS

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

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

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

### 604.4 MEMBER RESPONSIBILITIES

Members shall report for work in an appropriate mental and physical condition. Members are prohibited from purchasing, manufacturing, distributing, dispensing, possessing or using controlled substances or alcohol on department premises or on department time (41 USC § 8103). The lawful possession or use of prescribed medications or over-the-counter remedies is excluded from this prohibition.

Members who are authorized to consume alcohol as part of a special assignment shall not do so to the extent of impairing on-duty performance.

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Members shall notify a supervisor immediately if they observe behavior or other evidence that they believe demonstrates that a fellow member poses a risk to the health and safety of the member or others due to drug or alcohol use.

Members are required to notify their immediate supervisors of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction (41 USC § 8103).

### **604.5 EMPLOYEE ASSISTANCE PROGRAM**

The County of Tehama currently offers a voluntary employee assistance program to assist those who wish to seek help for alcohol and drug problems (41 USC § 8103). Insurance coverage that provides treatment for drug and alcohol abuse also may be available. Employees should contact the Personnel Department, their insurance providers or the employee assistance program for additional information. It is the responsibility of each employee to seek assistance before alcohol or drug problems lead to performance problems.

### **604.6 WORK RESTRICTIONS**

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

If the supervisor reasonably believes, based on objective facts, that a member is impaired by the consumption of alcohol or other drugs, the supervisor shall prevent the member from continuing work and shall immediately notify a Deputy Chief.

### **604.7 REQUESTING SCREENING TESTS**

A Deputy Chief may request an employee to submit to a screening test under the following circumstances:

- (a) The Deputy Chief reasonably believes, based upon objective facts, that the employee is under the influence of alcohol or drugs that are impairing his/her ability to perform duties safely and efficiently.
- (b) The employee discharges a firearm, other than by accident, in the performance of his/her duties.
- (c) During the performance of his/her duties, the employee drives a motor vehicle and becomes involved in an incident that results in bodily injury to him/herself or another person, or any damage to property.

#### **604.7.1 DEPUTY CHIEF'S RESPONSIBILITY**

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

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

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- (b) The result of the test is not admissible in any criminal proceeding against the employee.
- (c) The employee may refuse the test, but refusal may result in dismissal or other disciplinary action.

### **604.7.2 SCREENING TEST REFUSAL**

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

- (a) Fails or refuses to submit to a screening test as requested.
- (b) After taking a screening test that indicates the presence of a controlled substance, fails to provide proof, within 72 hours after being requested, that he/she took the controlled substance as directed, pursuant to a current and lawful prescription issued in his/her name.
- (c) Violates any provisions of this policy.

### **604.8 COMPLIANCE WITH THE DRUG-FREE WORKPLACE ACT**

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

### **604.9 CONFIDENTIALITY**

The Department recognizes the confidentiality and privacy due to its members. Disclosure of any information relating to substance abuse treatment, except on a need-to-know basis, shall only be with the express written consent of the member involved or pursuant to lawful process.

The written results of any screening tests and all documents generated by the employee assistance program are considered confidential medical records and shall be maintained separately from the employee's other personnel files.

## Sick Leave

### 605.1 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.) and the California Family Rights Act, and leave related to domestic violence, sexual assault, stalking or for organ or bone marrow donor procedures (29 CFR 825; Government Code § 12945.2; Labor Code § 230.1; Labor Code § 1510).

### 605.2 EMPLOYEE RESPONSIBILITIES

Sick leave may be used for absences caused by illness, injury, diagnosis, care or treatment for existing health conditions, temporary disability (including pregnancy/maternity), or for medical, dental or vision exams or medical treatment of the employee or the employee's immediate family when it is not possible to schedule such appointments during non-working hours.

Sick leave is not considered vacation, and abuse of sick leave may result in discipline and/or denial of sick-leave benefits. Employees on sick leave shall not engage in other employment or self-employment, or participate in any sport, hobby, recreational or other activity which may impede recovery from the injury or illness.

Upon return to work, employees shall complete and submit a leave request describing the type of leave used and the specific amount of time taken.

#### 605.2.1 NOTIFICATION

Employees are encouraged to notify their supervisor as soon as they are aware that they will not be able to report to work. At a minimum, employees shall make such notification no less than one hour before the start of their scheduled work hours. If an employee is unable to contact the supervisor in the case of an emergency, every effort should be made to have a representative contact the supervisor.

When the necessity for leave is foreseeable, such as an expected birth or planned medical treatment, the employee shall, whenever possible, provide the Department with no less than 30-days notice of the intent to take leave.

### 605.3 EXTENDED ILLNESS

Employees on extended absences shall, if possible, contact their unit supervisor at three-day intervals to provide an update on their absence and expected date of return. Employees absent from duty due to personal illness in excess of three consecutive days may be required to furnish

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a statement from their health care provider supporting the use of sick leave and/or the ability to return to work.

Nothing in this section precludes a supervisor, with cause, from requiring a physician's statement if three or fewer sick days are taken.

#### **605.3.1 NOTIFICATION**

All members should notify the appropriate supervisor or Deputy Chief Probation Officer as soon as they are aware that they will not be able to report to work and no less than one hour before the start of their scheduled shifts. If, due to an emergency, a member is unable to contact the supervisor, every effort should be made to have a representative for the member contact the supervisor (Labor Code § 246 ).

When the necessity to be absent from work is foreseeable, such as planned medical appointments or treatments, the member shall, whenever possible and practicable, provide the supervisor or Deputy Chief Probation Officer 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.

#### **605.4 SUPERVISOR RESPONSIBILITY**

Supervisors should monitor sick leave usage and regularly review the attendance of employees under their command to ensure that the use of sick leave is consistent with this policy. Supervisors should address sick-leave use in the employee's performance evaluation when it has negatively affected the employee's performance or ability to complete assigned duties, and when unusual amounts of sick leave by the employee has had a negative impact on department operations. When appropriate, supervisors should counsel employees regarding the excessive use of sick leave and should consider referring the employee to the Employee Assistance Program.

#### **605.5 REQUIRED NOTICES**

The Personnel Director shall ensure:

- (a) Written notice of the amount of paid sick leave available is provided to employees as provided in Labor Code § 246.
- (b) A poster is displayed in a conspicuous place for employees to review that contains information on paid sick leave as provided in Labor Code § 247.

#### **605.6 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.

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- (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 Personnel Department as appropriate.
- (c) Addressing absences and sick leave use in the member's performance evaluation when excessive or unusual use has:
  - 1. Negatively affected the member's performance or ability to complete assigned duties.
  - 2. Negatively affected [department/office] 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.

# Communicable Diseases

## 606.1 PURPOSE AND SCOPE

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

### 606.1.1 DEFINITIONS

Definitions related to this policy include:

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

**Exposure** - When an eye, mouth, mucous membrane or non-intact skin comes into contact with blood or other potentially infectious materials, or when these substances are injected or infused under the skin; when an individual is exposed to a person who has a disease that can be passed through the air by talking, sneezing or coughing (e.g., tuberculosis), or the individual is in an area that was occupied by such a person. Exposure only includes those instances that occur due to a member's position at the Tehama County Probation Department. (See the exposure control plan for further details to assist in identifying whether an exposure has occurred.)

## 606.2 EXPOSURE CONTROL OFFICER

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

- (a) Exposure-prevention and decontamination procedures.
- (b) Procedures for when and how to obtain medical attention in the event of an exposure or suspected exposure.
- (c) The provision that [department/office] members will have no-cost access to the appropriate personal protective equipment (PPE) (e.g., gloves, face masks, eye protection, pocket masks) for each member's position and risk of exposure.
- (d) Evaluation of persons in custody for any exposure risk and measures to separate them (15 CCR 1051; 15 CCR 1207).
- (e) Compliance with all relevant laws or regulations related to communicable diseases, including:
  1. Responding to requests and notifications regarding exposures covered under the Ryan White law (42 USC § 300ff-133; 42 USC § 300ff-136).
  2. Bloodborne pathogen mandates including (8 CCR 5193):
    - (a) Sharps injury log.
    - (b) Needleless systems and sharps injury protection.
  3. Airborne transmissible disease mandates including (8 CCR 5199):

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- (a) Engineering and work practice controls related to airborne transmissible diseases.
- (b) Distribution of appropriate personal protective equipment to minimize exposure to airborne disease.
- 4. Promptly notifying the county health officer regarding member exposures (Penal Code § 7510).
- 5. Establishing procedures to ensure that members request exposure notification from health facilities when transporting a person that may have a communicable disease and that the member is notified of any exposure as required by Health and Safety Code § 1797.188.
- 6. Informing members of the provisions of Health and Safety Code § 1797.188 (exposure to communicable diseases and notification).
- (f) Provisions for acting as the designated officer liaison with health care facilities regarding communicable disease or condition exposure notification. The designated officer should coordinate with other [department/office] members to fulfill the role when not available. The designated officer shall ensure that the name, title and telephone number of the designated officer is posted on the [Department/Office] website (Health and Safety Code § 1797.188).

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

### **606.3 POST EXPOSURE**

#### **606.3.1 REPORTING REQUIREMENTS**

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

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

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

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The supervisor should complete the incident documentation in conjunction with other reporting requirements that may apply (see the Occupational Disease and Work-Related Injury Reporting Policy).

### 606.3.2 INITIAL POST-EXPOSURE STEPS

Members who experience an exposure or suspected exposure shall:

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

### 606.3.3 MEDICAL CONSULTATION, EVALUATION AND TREATMENT

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

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

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

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

### 606.3.4 COUNSELING

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

### 606.3.5 SOURCE TESTING

Testing a person for communicable diseases when that person was the source of an exposure should be done when it is desired by the exposed member or when it is otherwise appropriate (8 CCR 5193). Source testing is the responsibility of the ECO. If the ECO is unavailable to seek timely testing of the source, it is the responsibility of the exposed member's supervisor to ensure testing is sought.

Source testing may be achieved by:

- (a) Obtaining consent from the individual.
- (b) Complying with the statutory scheme of Health and Safety Code § 121060. This includes seeking consent from the person who was the source of the exposure and seeking a court order if consent is not given.
- (c) Testing the exposed member for evidence of a communicable disease and seeking consent from the source individual to either access existing blood samples for testing or for the source to submit to testing (Health and Safety Code § 120262).

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- (d) Taking reasonable steps to immediately contact the County Health Officer and provide preliminary information regarding the circumstances of the exposure and the status of the involved individuals to determine whether the County Health Officer will order testing (Penal Code § 7510).
- (e) Under certain circumstances, a court may issue a search warrant for the purpose of HIV testing a person when the exposed member qualifies as a crime victim (Penal Code § 1524.1).

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

The ECO should seek the consent of the individual for testing and consult the County Counsel to discuss other options when no statute exists for compelling the source of an exposure to undergo testing if he/she refuses.

### **606.4 EXPOSURE PREVENTION AND MITIGATION**

#### **606.4.1 IMMUNIZATIONS**

Members who could be exposed to HBV due to their positions may receive the HBV vaccine and any routine booster at no cost (8 CCR 5193).

#### **606.4.2 GENERAL PRECAUTIONS**

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

- (a) Stocking disposable gloves, antiseptic hand cleanser, CPR masks or other specialized equipment in the work area or department vehicles, as applicable.
- (b) Wearing department-approved disposable gloves when contact with blood, other potentially infectious materials, mucous membranes and non-intact skin can be reasonably anticipated.
- (c) Washing hands immediately or as soon as feasible after removal of gloves or other PPE.
- (d) Treating all human blood and bodily fluids/tissue as if it is known to be infectious for a communicable disease.
- (e) Using an appropriate barrier device when providing CPR.
- (f) Using a face mask or shield if it is reasonable to anticipate an exposure to an airborne transmissible disease.
- (g) Decontaminating non-disposable equipment (e.g., flashlight, control devices, clothing and portable radio) as soon as possible if the equipment is a potential source of exposure.

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1. Clothing that has been contaminated by blood or other potentially infectious materials shall be removed immediately or as soon as feasible and stored/decontaminated appropriately.
  - (h) Handling all sharps and items that cut or puncture (e.g., needles, broken glass, razors, knives) cautiously and using puncture-resistant containers for their storage and/or transportation.
  - (i) Avoiding eating, drinking, smoking, applying cosmetics or lip balm, or handling contact lenses where there is a reasonable likelihood of exposure.
  - (j) Disposing of biohazardous waste appropriately or labeling biohazardous material properly when it is stored.

### **606.5 CONFIDENTIALITY OF REPORTS**

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

### **606.6 TRAINING**

All members shall participate in training regarding communicable diseases commensurate with the requirements of their position. The training (8 CCR 5193):

- (a) Shall be provided at the time of initial assignment to tasks where an occupational exposure may take place and at least annually after the initial training.
- (b) Shall be provided whenever the member is assigned new tasks or procedures affecting his/her potential exposure to communicable disease.
- (c) Should provide guidance on what constitutes an exposure, what steps can be taken to avoid an exposure and what steps should be taken if a suspected exposure occurs.

### **606.7 POLICY**

The Tehama County Probation Department is committed to providing a safe work environment for its members. Members should be aware that they are ultimately responsible for their own health and safety.

## Smoking and Tobacco Use

### 607.1 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 Tehama 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.

### 607.2 POLICY

The Tehama County Probation Department recognizes that tobacco use is a health risk and can be offensive to others.

Smoking and tobacco use also presents an unprofessional image for the Department and its members. Therefore smoking and tobacco use is prohibited by members and visitors in all department facilities, buildings and vehicles, and as is further outlined in this policy (Government Code § 7597; Labor Code § 6404.5).

### 607.3 EMPLOYEE USE

Tobacco use by employees is prohibited anytime employees are in public view representing the Department.

Where available, employee's shall restrict tobacco use to non county time, (breaks, meal break) and in designated areas.

Smoking and the use of other tobacco products is not permitted inside any County facility, office or vehicle (California Labor Code § 6404.5).

It shall be the responsibility of each employee to ensure that no person under his/her supervision smokes or uses any tobacco product inside County facilities and vehicles.

### 607.4 ADDITIONAL PROHIBITIONS

No person shall use tobacco products within 20 feet of a main entrance, exit, or operable window of any public building (including any 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.).

#### 607.4.1 NOTICE

The Chief Probation Officer or the authorized designee should ensure that proper signage is posted at each entrance to the Department facility (Labor Code § 6404.5).

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## Personnel Complaints

### 608.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Tehama 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.

### 608.2 POLICY

The Tehama 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.

### 608.3 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.

#### 608.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

**Informal** - A matter in which the Deputy Chief Probation Officer 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 Investigator, 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 Investigator, such matters may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

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### 608.3.2 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.

### **608.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS**

#### 608.4.1 COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the public area of the probation facility and be accessible through the department website. Forms may also be available at other County facilities.

Personnel complaint forms in languages other than English may also be provided, as determined necessary or practicable.

#### 608.4.2 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.

If requested, a complainant shall be provided with a copy of his/her statement at the time it is filed with the Department (Penal Code § 832.7).

#### 608.4.3 AVAILABILITY OF WRITTEN PROCEDURES

The Department shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

### **608.5 DOCUMENTATION**

Supervisors shall ensure that all formal and informal complaints are documented on a complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

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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.

### **608.6 ADMINISTRATIVE INVESTIGATIONS**

Allegations of misconduct will be administratively investigated as follows

#### **608.6.1 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 Deputy Chief Probation Officer 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 Deputy Chief Probation Officer 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 within 24 hours of the Department receiving the complaint.
  - 2. If the matter is resolved and no further action is required, the supervisor will note the resolution on a complaint form and forward the form to the Deputy Chief Probation Officer.
- (d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the Deputy Chief Probation Officer and Chief Probation Officer are notified via the chain of command as soon as practicable.
- (e) Promptly contacting the Personnel Department and the Deputy 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.

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- (f) Forwarding unresolved personnel complaints to the Deputy Chief Probation Officer, who will determine whether to contact the complainant or assign the complaint for investigation.
- (g) Informing the complainant of the investigator's name and the complaint number within three days after assignment.
- (h) Investigating a complaint as follows:
  - 1. Making reasonable efforts to obtain names, addresses and telephone numbers of witnesses.
  - 2. When appropriate, ensuring immediate medical attention is provided and photographs of alleged injuries and accessible uninjured areas are taken.
- (i) Ensuring that the procedural rights of the accused member are followed (Government Code § 3303 et seq.).
- (j) Ensuring interviews of the complainant are generally conducted during reasonable hours.

### 608.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

Whether conducted by a supervisor or a member of the Internal Affairs Investigator, the following applies to members covered by the Public Safety Officers Procedural Bill of Rights Act (POBR) (Government Code § 3303):

- (a) Interviews of an accused member shall be conducted during reasonable hours and preferably when the member is on-duty. If the member is off-duty, he/she shall be compensated.
- (b) Unless waived by the member, interviews of an accused member shall be at the Tehama 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 deputy probation 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

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investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

2. No information or evidence administratively coerced from a member may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.
- (h) The interviewer should record all interviews of members and witnesses. The member may also record the interview. If the member has been previously interviewed, a copy of that recorded interview shall be provided to the member prior to any subsequent interview.
  - (i) All members subjected to interviews that could result in discipline have the right to have an uninvolved representative present during the interview. However, 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 deputy probation officer solely because the deputy probation officer has been placed on a prosecutor's *Brady* list or the name of the deputy probation 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 deputy probation officer has been placed on a Brady list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

### 608.6.3 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.

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**Exhibits** - A separate list of exhibits (e.g., recordings, photos, documents) should be attached to the report.

#### 608.6.4 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/office] members. Complaints that are determined to be frivolous will fall within the classification of unfounded (Penal Code § 832.8).

**Exonerated** - When the investigation discloses that the alleged act occurred but that the act was justified, lawful and/or proper.

**Not sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the member.

**Sustained** - A final determination by an investigating agency, commission, board, hearing officer, or arbitrator, as applicable, following an investigation and opportunity for an administrative appeal pursuant to Government Code § 3304 and Government Code § 3304.5 that the actions of a deputy probation officer were found to violate law or [department/office] policy (Penal Code § 832.8).

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

#### 608.6.5 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)).

#### 608.7 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.

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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).

### **608.7.1 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

### **608.8 ADMINISTRATIVE LEAVE**

When a complaint of misconduct is of a serious nature, or when circumstances indicate that allowing the accused to continue to work would adversely affect the mission of the Department, the Chief Probation Officer or the authorized designee may temporarily assign an accused employee to administrative leave. Any employee placed on administrative leave:

- (a) May be required to relinquish any department badge, identification, assigned weapons and any other department equipment.
- (b) Shall be required to continue to comply with all policies and lawful orders of a supervisor.
- (c) May be temporarily reassigned to a different shift, generally a normal business-hours shift, during the investigation. The employee may be required to remain available for contact at all times during such shift, and will report as ordered.

### **608.9 CRIMINAL INVESTIGATION**

Where a member is accused of potential criminal conduct, a separate supervisor or investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief Probation Officer shall be notified as soon as practicable when a member is accused of criminal conduct. The Chief Probation Officer may request a criminal investigation by an outside law enforcement agency.

A member accused of criminal conduct shall be advised of 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.

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The Tehama County Probation Department may release information concerning the arrest or detention of any member, including a deputy probation officer, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted.

### **608.10 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 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.

#### **608.10.1 DIVISION COMMANDER RESPONSIBILITIES**

Upon receipt of any completed personnel investigation, the Deputy Chief Probation Officer of the involved member shall review the entire investigative file, the member's personnel file and any other relevant materials.

The Deputy Chief Probation Officer may make recommendations regarding the disposition of any allegations and the amount of discipline, if any, to be imposed.

Prior to forwarding recommendations to the Chief Probation Officer, the Deputy Chief Probation Officer may return the entire investigation to the assigned investigator or supervisor for further investigation or action.

When forwarding any written recommendation to the Chief Probation Officer, the Deputy Chief Probation Officer 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.

#### **608.10.2 CHIEF PROBATION OFFICER RESPONSIBILITIES**

Upon receipt of any written recommendation for disciplinary action, the Chief Probation Officer shall review the recommendation and all accompanying materials. The Chief Probation Officer may modify any recommendation and/or may return the file to the Deputy Chief Probation Officer for further investigation or action.

Once the Chief Probation Officer is satisfied that no further investigation or action is required by staff, the Chief Probation Officer shall determine the amount of discipline, if any, that should be imposed. In the event disciplinary action is proposed, the Chief Probation Officer shall provide the member with a pre-disciplinary procedural due process hearing (Skelly) by providing written notice of the charges, proposed action and reasons for the proposed action. Written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief Probation Officer shall also provide the member with:

- (a) Access to all of the materials considered by the Chief Probation Officer in recommending the proposed discipline.
- (b) An opportunity to respond orally or in writing to the Chief Probation Officer within five days of receiving the notice.

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1. Upon a showing of good cause by the member, the Chief Probation Officer may grant a reasonable extension of time for the member to respond.
2. If the member elects to respond orally, the presentation 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 Chief Probation Officer shall consider all information received in regard to the recommended discipline. The Chief Probation Officer shall render a timely written decision to the member and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Chief Probation Officer has issued a written decision, the discipline shall become effective.

### **608.10.3 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT**

The Chief Probation Officer or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded) of the complaint (Penal Code § 832.7(f)).

### **608.10.4 NOTICE REQUIREMENTS**

The disposition of any civilian's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall not include what discipline, if any, was imposed (Penal Code § 832.7(f)).

### **608.11 PRE-DISCIPLINE EMPLOYEE RESPONSE**

The pre-discipline process is intended to provide the accused employee with an opportunity to present a written or oral response to the Chief Probation Officer after having had an opportunity to review the supporting materials and prior to imposition of any recommended discipline. The employee shall consider the following:

- (a) The response is not intended to be an adversarial or formal hearing.
- (b) Although the employee may be represented by an uninvolved representative or legal counsel, the response is not designed to accommodate the presentation of testimony or witnesses.
- (c) The employee may suggest that further investigation could be conducted or the employee may offer any additional information or mitigating factors for the Chief Probation Officer to consider.
- (d) In the event that the 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 Chief Probation Officer on the limited issues of information raised in any subsequent materials.

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### **608.12 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.

### **608.13 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 a deputy probation 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).

### **608.14 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 deputy probation officer subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the Peace Officer Bill of Rights (Government Code § 3303; Government Code § 3304). At-will, probationary employees and those other than non-probationary employees subjected to discipline or termination as a result of allegations of misconduct shall not be deemed to have acquired a property interest in their position, but shall be given the opportunity to appear before the Chief Probation Officer or authorized designee for a non-evidentiary hearing for the sole purpose of attempting to clear their name or liberty interest. There shall be no further opportunity for appeal beyond the liberty interest hearing and the decision of the Chief Probation Officer shall be final.

### **608.15 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.

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## Brady Material Disclosure

### 609.1 PURPOSE AND SCOPE

This policy establishes guidelines for identifying and releasing potentially exculpatory or impeachment information (so-called "*Brady* information") to a prosecuting attorney.

#### 609.1.1 DEFINITIONS

Definitions related to this policy include:

**Brady information** -Information known or possessed by the Tehama County Probation Department that is both favorable and material to the current prosecution or defense of a criminal defendant.

### 609.2 POLICY

The Tehama County Probation Department will conduct fair and impartial criminal investigations and will provide the prosecution with both incriminating and exculpatory evidence, as well as information that may adversely affect the credibility of a witness. In addition to reporting all evidence of guilt, the Tehama County Probation Department will assist the prosecution by complying with its obligation to disclose information that is both favorable and material to the defense. The Department will identify and disclose to the prosecution potentially exculpatory information, as provided in this policy.

### 609.3 DISCLOSURE OF INVESTIGATIVE INFORMATION

Deputy probation officers must include in their investigative reports adequate investigative information and reference to all material evidence and facts that are reasonably believed to be either incriminating or exculpatory to any individual in the case. If a deputy probation officer learns of potentially incriminating or exculpatory information any time after submission of a case, the deputy probation officer or the handling investigator must prepare and submit a supplemental report documenting such information as soon as practicable. Supplemental reports shall be promptly processed and transmitted to the prosecutor's office.

If information is believed to be privileged or confidential (e.g., confidential informant or protected personnel files), the deputy probation officer should discuss the matter with a supervisor and/or prosecutor to determine the appropriate manner in which to proceed.

Evidence or facts are considered material if there is a reasonable probability that they would affect the outcome of a criminal proceeding or trial. Determining whether evidence or facts are material often requires legal or even judicial review. If a deputy probation officer is unsure whether evidence or facts are material, the deputy probation officer should address the issue with a supervisor.

Supervisors who are uncertain about whether evidence or facts are material should address the issue in a written memo to an appropriate prosecutor. A copy of the memo should be retained in the Department case file.

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### **609.4 DISCLOSURE OF PERSONNEL INFORMATION**

Whenever it is determined that *Brady* information is located in the personnel file of a member of this department who is a material witness in a criminal case, the following procedure shall apply:

- (a) In the event that a *Pitchess* motion has not already been filed by the criminal defendant or other party pursuant to Evidence Code § 1043, the prosecuting attorney shall be notified of the potential presence of *Brady* information in the deputy probation officer's personnel file.
- (b) The prosecuting attorney should then be requested to file a *Pitchess* motion in order to initiate an in camera review by the court.
- (c) Any member who is the subject of such a motion shall be notified in writing that a motion has been filed.
- (d) The Custodian of Records shall accompany all relevant files during any in camera inspection and address any issues or questions raised by the court in determining whether any information contained in the files is both material and favorable to the criminal defendant.
- (e) If the court determines that there is relevant *Brady* information contained in the files, only that information ordered released will be copied and released to the parties filing the motion.
  1. Prior to the release of any information pursuant to this process, the Custodian of Records should request a protective order from the court limiting the use of such information to the involved case and requiring the return of all copies upon completion of the case.

### **609.5 INVESTIGATING BRADY ISSUES**

If the Department receives information from any source that a member may have issues of credibility, dishonesty or has been engaged in an act of moral turpitude or criminal conduct, the information shall be investigated and processed in accordance with the Personnel Complaints Policy.

### **609.6 TRAINING**

Department members should receive periodic training on the requirements of this policy.

## Seat Belts

### 610.1 PURPOSE AND SCOPE

This policy establishes guidelines for the use of seat belts and child restraints. This policy will apply to all employees operating or riding in department vehicles (Vehicle Code § 27315.5).

#### 610.1.1 DEFINITIONS

Definitions related to this policy include:

**Child restraint system** - An infant or child passenger restraint system that meets Federal Motor Vehicle Safety Standards (FMVSS) and Regulations set forth in 49 CFR 571.213.

### 610.2 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.

### 610.3 TRANSPORTING PRISONERS

Prisoner should be seated in the back seat of a transport vehicle, preferably a caged vehicle. The prisoner should be in a seating position for which seat belts have been provided by the vehicle manufacturer.

### 610.4 INOPERABLE SEAT BELTS

No person shall operate a department vehicle in which the seat belt in the driver's position is inoperable. No person shall be transported in a seating position in which the seat belt is inoperable.

No person shall modify, remove, deactivate or otherwise tamper with the vehicle safety belts, except for vehicle maintenance and repair staff who shall do so only with the express authorization of the Chief 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.

### 610.5 POLICY

It is the policy of the Tehama County Probation Department that members use safety and child restraint systems to reduce the possibility of death or injury in a motor vehicle collision.

## *Seat Belts*

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### **610.6 TRANSPORTING CHILDREN**

Children under the age of 8 shall be transported in compliance with California's child restraint system requirements (Vehicle Code § 27360; Vehicle Code § 27363).

Rear seat passengers in a cage-equipped vehicle may have reduced clearance, which requires careful seating and positioning of seat belts. Due to this reduced clearance, and if permitted by law, children and any child restraint system may be secured in the front seat of such vehicles provided this positioning meets federal safety standards and the vehicle and child restraint system manufacturer's design and use recommendations. In the event that a child is transported in the front seat of a vehicle, the seat should be pushed back as far as possible and the passenger-side airbag should be deactivated. If this is not possible, members should arrange alternate transportation when feasible. A child shall not be transported in a rear-facing child restraint system in the front seat in a vehicle that is equipped with an active frontal passenger airbag (Vehicle Code § 27363).

## Body Armor

### 611.1 PURPOSE AND SCOPE

The purpose of this policy is to provide law enforcement officers with guidelines for the proper use of body armor.

### 611.2 POLICY

It is the policy of the Tehama County Probation Department to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

### 611.3 ISSUANCE OF BODY ARMOR

The Administration shall ensure that body armor is issued to all field deputy probation officers. The body armor shall meet or exceed the standards of the National Institute of Justice.

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

#### 611.3.1 USE OF SOFT BODY ARMOR

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

- (a) Deputy probation officers shall only wear agency-approved body armor.
- (b) Deputy probation officers shall wear body armor anytime they are in a situation where they could reasonably be expected to take enforcement action.
- (c) Deputy probation officers may be excused from wearing body armor when they are functioning primarily in an administrative or support capacity and could not reasonably be expected to take enforcement action.
- (d) Body armor shall be worn when taking part in Department range training.
- (e) A deputy probation officer may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor, or when a supervisor determines that other circumstances make it inappropriate to mandate wearing body armor.

#### 611.3.2 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation.

#### 611.3.3 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks.

## *Body Armor*

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Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions. Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically recommended by the manufacturer, as noted on the armor panel label.

Soft body armor should be replaced in accordance with the manufacturer's recommended replacement schedule.

### **611.4 RANGEMASTER RESPONSIBILITIES**

The Rangemaster should:

- (a) Monitor technological advances in the body armor industry for any appropriate changes to Department approved body armor.
- (b) Assess weapons and ammunition currently in use and the suitability of approved body armor to protect against those threats.
- (c) Provide training that educates deputy probation officers about the safety benefits of wearing body armor.

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## Personnel Records

### 612.1 PURPOSE AND SCOPE

This section governs the maintenance, retention and access to peace officer personnel files in accordance with established law. It is the policy of this department to maintain the confidentiality of peace officer personnel records pursuant to Penal Code § 832.7.

### 612.2 PERSONNEL FILES DEFINED

Pursuant to Penal Code § 832.8, peace officer personnel records shall include any file maintained under an individual deputy probation officer's name relating to:

- (a) Personal data, including marital status, family members, educational and employment history, or similar information.
- (b) Medical history including medical leave of absence forms, fitness for duty examinations, workers compensation records, medical releases and all other records which reveal an employee's past, current or anticipated future medical conditions.
- (c) Election of employee benefits.
- (d) Employee advancement, appraisal, or discipline.
- (e) Complaints, or investigations of complaints, concerning an event or transaction in which the deputy probation officer participated, or which the deputy probation officer perceived, and pertaining to the manner in which the deputy probation officer performed official duties.
- (f) Any other information the disclosure of which would constitute an unwarranted invasion of personal privacy.

### 612.3 [DEPARTMENT/OFFICE] FILE

The [department/office] file shall be maintained as a record of a person's employment/appointment with this [department/office]. The [department/office] 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

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- 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/office] 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 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.

### 612.4 CONFIDENTIALITY OF ALL PERSONNEL FILES

Pursuant to Penal Code § 832.7, all of the above-defined personnel records shall be deemed confidential and shall not be subject to disclosure except pursuant to the discovery procedures set forth in Evidence Code § 1043, et seq. or in accordance with applicable federal discovery laws. Nothing in this section is intended to preclude review of personnel files by the County Administrator, County Counsel or other attorneys or representatives of the County in connection with official business.

### 612.5 REQUESTS FOR DISCLOSURE

Only written requests for the disclosure of any information contained in any peace officer personnel record will be considered. Since the format of such requests may be strictly governed by law with specific responses required, all such requests shall be promptly brought to the attention of the Custodian of Records and Chief Probation Officer.

Upon receipt of any such request, the responsible person shall notify the affected employee(s) as soon as practicable that such a request has been made (Evidence Code § 1043(a)).

The responsible person shall further ensure that an appropriate response to the request is made in a timely manner, consistent with applicable law. In many cases, this will require assistance of approved and available legal counsel.

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All requests for disclosure, which result in access to an employee's personnel file(s), shall be logged in the corresponding file.

### **612.5.1 RELEASE OF CONFIDENTIAL INFORMATION**

Except as provided by this policy or pursuant to lawful process, no information contained in any confidential peace officer personnel file shall be disclosed to any unauthorized person(s) without the express consent of the involved deputy probation officer or written authorization of the Chief Probation Officer or his or her designee.

Any person who maliciously, and with the intent to obstruct justice or the due administration of the laws, publishes, disseminates, or otherwise discloses the residence address or telephone number of any member of this department may be guilty of a misdemeanor (Penal Code § 146e).

Pursuant to Penal Code § 832.7(e), the disposition of any citizen's complaint shall be released to the complaining party within 30 days of the final disposition. This release shall be limited to the disposition and shall not include what discipline, if any was imposed.

The Department may also release any factual information concerning a disciplinary investigation if the deputy probation officer who is the subject of the investigation (or the deputy probation officer's representative) publicly makes a statement which is published in the media and which the deputy probation officer (or representative) knew to be false. The disclosure of such information, if any, shall be limited to facts that refute any such false statement (Penal Code § 832.7(d)).

### **612.6 INTERNAL AFFAIRS FILE**

Internal affairs files shall be maintained under the exclusive control of the Internal Affairs Investigator 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 Investigator 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 resulted in other than a sustained finding may not be used by the [Department/Office] 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).

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### **612.7 TYPES OF PERSONNEL FILES**

Peace officer personnel files can be located in any of the following places:

#### **612.7.1 DEPARTMENT FILE**

The Department file should contain, but is not limited to, the following:

- (a) Performance evaluation reports regularly completed by appropriate supervisor and signed by the affected employee shall be permanently maintained.
- (b) Records of all training (original or photocopies of available certificates, transcripts, diplomas and other documentation) and education shall be maintained.
  - 1. It shall be the responsibility of the involved employee to provide the Training Coordinator or immediate supervisor with evidence of completed training/education in a timely manner.
  - 2. The Training Coordinator or supervisor shall ensure that copies of such training records are placed in the employee's department file.
- (c) Disciplinary action:
  - 1. Disciplinary action resulting from sustained internally initiated complaints or observation of misconduct shall be maintained in the individual employee's department file at least two years (Government Code § 34090).
  - 2. Disciplinary action resulting from a sustained citizen's complaint shall be maintained in the individual employee's department file at least five years (Penal Code § 832.5).
  - 3. Investigations of complaints which result in a finding of not-sustained, unfounded or exonerated shall not be placed in the employee's department file, but will be separately maintained for the appropriate retention period in the internal affairs file.
- (d) Adverse comments may be retained in the department file or division file after the employee has had the opportunity to read and initial the comment and for a period up to two years (Government Code § 3305).
  - 1. Once an employee has had an opportunity to read and initial any adverse comment prior to entry into a file, the employee shall be given the opportunity to respond in writing to such adverse comment within 30 days (Government Code § 3306).
  - 2. Any such employee response shall be attached to and retained with the original adverse comment.
  - 3. If an employee refuses to initial or sign an adverse comment, at least one supervisor should note the date and time of such refusal on the original

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comment. Such a refusal, however, shall not be deemed insubordination nor shall it prohibit the entry of the adverse comment into the employee's file.

- (e) Commendations shall be retained in the employee's department file, with a copy provided to the involved employee.
- (f) Personnel Action Reports reflecting assignments, promotions and other changes in the employee's employment status shall be permanently retained.
- (g) A photograph of the employee shall be permanently retained.

### 612.7.2 SUPERVISOR FILE

The Supervisor File should contain, but is not limited to, the following:

- (a) Commendations, notices to correct and other materials intended to serve as a foundation for the completion of timely Performance Evaluations
  1. 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 3306.
  2. Duplicate copies of items that will also be included in the employee's department file may be placed in this interim file in anticipation of completing any upcoming performance evaluation.
  3. Once the permanent performance evaluation form has been made final, the underlying foundational material(s) and/or duplicate copies may be purged in accordance with this policy.
- (b) All rules of confidentiality and disclosure shall apply equally to the Supervisor File.

### 612.7.3 INTERNAL AFFAIRS FILE

Internal affairs files shall be maintained under the exclusive control of the office of the Chief Probation Officer. Access to these files may only be approved by the Chief Probation Officer. These files shall contain:

- (a) The complete investigation of all formal complaints of employee misconduct, regardless of disposition
  1. Each investigation file shall be sequentially numbered within a calendar year (e.g., yy-001, yy-002).
  2. Each investigation file arising out of a formal citizen's complaint or a complaint involving a discriminatory harassment or hostile work environment shall be maintained no less than five years (Penal Code § 832.5(b)). Investigation files arising out of other internally generated complaints shall be maintained no less than two years (Government Code § 34090).

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- (b) Investigations that result in other than a sustained finding shall be maintained for the minimum statutory period but may not be used by the Department to adversely affect an employee's career (Penal Code § 832.5 (c)).

### 612.7.4 TRAINING FILES

An individual training file shall be maintained by the Training Coordinator for each employee. Training files will contain records of all training and education mandated by law or the Department, including firearms qualifications and mandated annual proficiency requalification.

- (a) It shall be the responsibility of the involved employee to provide the Training Coordinator or immediate supervisor with evidence of completed training/education in a timely manner.
- (b) The Training Coordinator or supervisor shall ensure that copies of such training records are placed in the employee's training file.

### 612.7.5 MEDICAL FILE

A medical file shall be maintained separately from all other files and shall contain all documents relating to the employee's medical condition and history, including but not limited to the following:

- (a) Materials relating to medical leaves of absence.
- (b) Documents relating to workers compensation claims or receipt of short or long term disability benefits.
- (c) Fitness for duty examinations, psychological and physical examinations, follow-up inquiries and related documents.
- (d) Medical release forms, doctor's slips and attendance records which reveal an employee's medical condition.
- (e) Any other documents or material which reveals the employee's medical history or medical condition, including past, present, or future anticipated mental, psychological, or physical limitations.

### 612.8 PURGING OF FILES

Formal citizen complaints and all related files not pending litigation or other ongoing legal proceedings may be purged no sooner than five years from the underlying complaint date (Penal Code § 832.5).

All other disciplinary files and investigations of non-citizen initiated complaints not pending litigation or other ongoing legal proceedings may be purged no sooner than two years from the underlying complaint date (Government Code § 34090; Government Code § 26202).

- (a) Each supervisor responsible for completing the employee's performance evaluation shall also determine whether any prior sustained disciplinary file should be retained beyond the statutory period for reasons other than pending litigation or other ongoing legal proceedings.

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- (b) If a supervisor determines that records of prior discipline should be retained beyond the applicable statutory period, approval for such retention shall be obtained through the chain of command from the Chief Probation Officer.
- (c) During the preparation of each employee's performance evaluation, all complaints and discipline should be reviewed to determine the relevancy, if any, to progressive discipline, training and career development. If, in the opinion of the Chief Probation Officer, a complaint or disciplinary action beyond the statutory retention period is no longer relevant, all records of such matter may be destroyed pursuant to resolution.

### **612.9 RELEASE OF PERSONNEL RECORDS AND RECORDS RELATED TO CERTAIN INCIDENTS, COMPLAINTS, AND INVESTIGATIONS OF DEPUTY PROBATION OFFICERS**

Personnel records and records related to certain incidents, complaints, and investigations of deputy probation 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 Investigator 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 a deputy probation officer in connection with an incident, or whether the deputy probation officer's action was consistent with law and [department/office] 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:

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1. The discharge of a firearm at another person by a deputy probation 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 a deputy probation officer.
- (b) Records relating to an incident where a sustained finding (see the Personnel Complaints Policy) was made by the [department/office] or oversight agency regarding:
1. A deputy probation officer engaged in sexual assault of a member of the public (as defined by Penal Code § 832.7(b)).
  2. Dishonesty of a deputy probation officer relating to the reporting, investigation, or prosecution of a crime, or directly relating to the reporting of, or investigation of misconduct by, another deputy probation 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 deputy probation officers, the [Department/Office] shall not release information about allegations of misconduct or the analysis or disposition of an investigation of a deputy probation officer unless it relates to a sustained finding of a qualified allegation as provided by Penal Code § 832.7(b)(4) against the deputy probation officer. However, factual information about the action of the deputy probation officer during an incident or the statements of a deputy probation officer shall be released if the statements are relevant to a sustained finding of the qualified allegation against another deputy probation officer that is subject to release (Penal Code § 832.7(b)(4)).

### 612.9.1 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 deputy probation 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 deputy probation officer or another person

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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)).

### 612.9.2 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.
  - 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 a deputy probation officer or against someone other than a deputy probation 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/office] policy, but no longer than 180 days after the date of the [department/office]'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 deputy probation officer's use of force

### 612.9.3 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

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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 a deputy probation officer and there are extraordinary circumstances to warrant a continued delay due to the ongoing criminal investigation or proceeding, then the [Department/Office] 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 deputy probation officers.

In cases where an action to compel disclosure is brought pursuant to Government Code § 6258, the [Department/Office] 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)).

## Employee Commendations

### 613.1 PURPOSE AND SCOPE

Special recognition may be in order whenever an employee performs his/her duties in an exemplary manner. This procedure provides general guidelines for the commending of exceptional employee performance.

### 613.2 WHO MAY MAKE COMMENDATIONS

A written commendation may be made by any supervisor regarding any other employee of the Department, provided the reporting person is superior in rank or is the person-in-charge of the individual being commended. Any employee may recommend a commendation to the supervisor of the employee subject to commendation. Any commendation to be included in the employee's personnel file shall be approved by the Chief Probation Officer.

### 613.3 COMMENDABLE ACTIONS

A meritorious or commendable act by an employee of this department may include, but is not limited to, the following:

- Superior handling of a difficult situation by an employee
- Conspicuous bravery or outstanding performance by any employee of the Department
- Any action or performance that is above and beyond the typical duties of an employee

#### 613.3.1 COMMENDATION

The Commendation shall be written to describe the incident and shall contain the following:

- (a) Employee name, division and assignment at the date and time of the commendation
- (b) A brief account of the commendable action shall be documented on the form with report numbers, as appropriate
- (c) Signature of the commending supervisor

Completed reports shall be forwarded to the appropriate Deputy Chief for his/her review. The Deputy Chief shall sign and forward the report to the Chief Probation Officer for his/her review.

The Chief Probation Officer will return the commendation to the employee for his/her signature. The report will then be returned to the Office Manager for entry into the employee's personnel file.

## Fitness for Duty

### 614.1 PURPOSE AND SCOPE

All deputy probation 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 deputy probation officers of this department remain fit for duty and able to perform their job functions (Government Code § 1031).

### 614.2 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.

### 614.3 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) The supervisor shall immediately notify the employee's Deputy Chief or if not available the Chief Probation Officer of the situation so a determination whether or not the employee should be temporarily relieved from his/her duties can be made.
- (e) The Chief Probation Officer shall be promptly notified in the event that any employee is relieved from duty.

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### **614.4 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.

### **614.5 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.

At the direction of the Chief Probation Officer, 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.

### **614.6 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 Personnel Department 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 (Civil Code § 56.10(c)(8)(A)). 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)(B)).
- (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.

### **614.7 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 to 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.

### **614.8 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 Conduct Policy.

## Lactation Break Policy

### 615.1 PURPOSE AND SCOPE

The purpose of this policy is to provide reasonable accommodations to employees desiring to express breast milk for the employee's infant child (Labor Code § 1034).

### 615.2 POLICY

It is the policy of this [department/office] to provide, in compliance with the Fair Labor Standards Act, reasonable break time and appropriate facilities to accommodate any employee desiring to express breast milk for her nursing infant child (29 USC § 207; Labor Code § 1030).

### 615.3 LACTATION BREAK TIME

A rest period should be permitted each time the employee has the need to express breast milk (29 USC § 207; Labor Code § 1030). In general, lactation breaks that cumulatively total 30 minutes or less during any four-hour work period or major portion of a four-hour work period would be considered reasonable. However, individual circumstances may require more or less time. Such breaks, if feasible, should be taken at the same time as the employee's regularly scheduled rest or meal periods.

While a reasonable effort will be made to provide additional time beyond authorized breaks, any such time exceeding regularly scheduled and paid break time will be unpaid (Labor Code § 1030).

Employees desiring to take a lactation break shall notify Dispatch or a supervisor prior to taking such a break. Such breaks may be reasonably delayed if they would seriously disrupt [department/office] operations (Labor Code § 1032).

Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

### 615.4 PRIVATE LOCATION

The [Department/Office] will make reasonable efforts to accommodate employees with the use of an appropriate room or other location to express milk in private. Such room or place should be in close proximity to the employee's work area and shall be other than a bathroom or toilet stall. The location must be shielded from view and free from intrusion from co-workers and the public (29 USC § 207; Labor Code § 1031).

Employees occupying such private areas shall either secure the door or otherwise make it clear to others that the area is occupied with a need for privacy. All other employees should avoid interrupting an employee during an authorized break, except to announce an emergency or other urgent circumstance.

Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

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### **615.5 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.

#### **615.5.1 STATE REQUIREMENTS**

Employees have the right to request lactation accommodations. If a break time or location accommodation cannot be provided, the supervisor shall provide the member with a written response regarding the reasons for the determination (Labor Code § 1034).

Lactation rooms or other locations should comply with the prescribed feature and access requirements of Labor Code § 1031.

Employees who believe that their rights have been violated under this policy or have been the subject of discrimination or retaliation for exercising or attempting to exercise their rights under this policy, are encouraged to follow the chain of command in reporting a violation, but may also file a complaint directly with the Labor Commissioner (Labor Code § 1033).

## Overtime Compensation Requests

### **616.1 PURPOSE AND SCOPE**

It is the policy of the Department to compensate non-exempt salaried employees who work authorized overtime either by payment of wages as agreed and in effect through the Memorandum of Understanding (MOU), or by the allowance of accrual of compensatory time off. In order to qualify for either, the employee must complete and submit a Request for Overtime Payment as soon as practical after overtime is worked.

#### **616.1.1 DEPARTMENT POLICY**

The nature of probation work, and the specific needs of the Department require a degree of flexibility concerning overtime policies must be maintained.

Non-exempt employees are not authorized to volunteer work time to the Department. All requests to work overtime shall be approved in advance by a supervisor. If circumstances do not permit prior approval, then approval shall be sought as soon as practical during the overtime shift and in no case later than the end of shift in which the overtime is worked.

Short periods of work at the end of the normal duty day (e.g., less than one hour in duration) may be handled unofficially between the supervisor and the employee by flexing a subsequent shift schedule to compensate for the time worked rather than by submitting requests for overtime payments. If the supervisor authorizes or directs the employee to complete a form for such a period, the employee shall comply.

The individual employee may request compensatory time in lieu of receiving overtime payment, however, the employee may not exceed the accrual limit of their specific bargaining unit's memorandum of understanding (MOU).

### **616.2 REQUEST FOR OVERTIME COMPENSATION**

Employees shall submit all overtime compensation requests to their immediate supervisors as soon as practicable for verification and forwarding to support Services.

Failure to submit a request for overtime compensation in a timely manner may result in discipline.

#### **616.2.1 EMPLOYEES RESPONSIBILITY**

Employees shall complete the requests immediately after working the overtime and turn them in to their immediate supervisor.

#### **616.2.2 SUPERVISORS RESPONSIBILITY**

The supervisor who verifies the overtime earned shall verify that the overtime was worked before approving the request.

After the entry has been made on the employee's time card, the overtime payment request form is forwarded to the employee's Deputy Chief for final approval.

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## *Overtime Compensation Requests*

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### 616.2.3 DEPUTY CHIEF'S RESPONSIBILITY

Deputy Chiefs, after approving payment, will then forward the form to the Chief Probation Officer for review.

### **616.3 ACCOUNTING FOR OVERTIME WORKED**

Employees are to record the actual time worked in an overtime status. In some cases, the Memorandum of Understanding provides that a minimum number of hours will be paid, (e.g., two hours for Court, four hours for outside overtime). The supervisor will enter the actual time worked.

#### 616.3.1 ACCOUNTING FOR PORTIONS OF AN HOUR

When accounting for less than a full hour, time worked shall be rounded up to the nearest quarter of an hour as indicated by the following chart:

<u>TIME WORKED</u>	<u>INDICATE ON CARD</u>
1 to 15 minutes	¼ hour
16 to 30 minutes	½ hour
31 to 45 minutes	¾ hour
46 to 60 minutes	1 hour

#### 616.3.2 VARIATION IN TIME REPORTED

Where two or more employees are assigned to the same activity, case, or court trial and the amount of time for which payment is requested varies from that reported by the other employee, the Deputy Chief or other approving supervisor may require each employee to include the reason for the variation on the back of the overtime payment request.

# Occupational Disease and Work-Related Injury Reporting

## 617.1 PURPOSE AND SCOPE

The purpose of this policy is to provide for the reporting of on-duty injuries, occupational illnesses, or deaths to Risk Management, to ensure proper medical attention is received, and document the circumstances of the incident.

### 617.1.1 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.).

## 617.2 POLICY

The Tehama 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.).

### 617.2.1 INJURIES REQUIRING MEDICAL CARE

All work related injuries and work related illnesses requiring medical care must be reported to the Risk Management Office and a claim form shall be provided to the injured employee within 24 hours from the time the injury was discovered, excluding weekends and holidays.

### 617.2.2 ACCIDENT DEFINED

**Accident** - is defined as any occurrence from which bodily injury or property damage may result, regardless of whether any injury or damage actually does occur (e.g., exposure where no immediate injury is apparent).

### 617.2.3 EMPLOYEE'S RESPONSIBILITY

Any employee sustaining any work-related injury or illness, as well as any employee who is involved in any accident while on duty shall report such injury, illness or accident as soon as practical to his/her supervisor.

Any employee observing or learning of a potentially hazardous condition is to promptly report the condition to his/her immediate supervisor.

Any employee sustaining a work-related injury or illness that requires relief from duty is required to be examined/treated by a doctor.

Any employee sustaining a work-related injury or illness that requires relief from duty is also required to comply with departmental policies and directives relating to the duty to periodically call in during absences, as well as the duty to notify the Department of any change in condition or anticipated duration of the absence.

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## *Occupational Disease and Work-Related Injury Reporting*

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When appropriate, an employee being treated for an on-duty injury should inform the attending physician that a modified duty assignment may be available at the Department. Limited-service duty may be available for the employees whose injuries prevent resumption of regular duties.

An injured employee or employee who has suffered a work-related illness shall report as soon as practical to his/her immediate supervisor the medical findings concerning the injury and the extent and duration of any work restrictions if they are known. In addition, such employees are required to promptly submit all medical releases, whether partial or full releases, to their supervisor.

### **617.2.4 SUPERVISOR'S RESPONSIBILITY**

A supervisor or other person of authority learning of any work-related injury, illness or accident shall promptly prepare the appropriate forms as outlined under this policy. Updated copies of forms with instructions for completion provided by Risk Management are kept in the Office Manager's office.

For work-related accidents, injuries or illness not requiring professional medical care, a Supervisor's Report of Injury form shall be completed in triplicate. All copies of the completed form shall be forwarded to the supervisor's Deputy Chief.

When an accident, injury, or illness is reported initially on the Supervisor's Report of Injury form and the employee subsequently requires professional medical care, the State of California Employer's Report of Occupational Injury or Illness form shall then be completed. The injured employee shall also sign the form in the appropriate location.

Every injured employee must be provided with an Employee's Claim for Workers' Compensation Benefits Form (DWC-1) within 24 hours, regardless of the nature of illness or injury.

Copies of any reports documenting the accident or injury should be forwarded to the Deputy Chief as soon as they are completed.

### **617.2.5 DEPUTY CHIEF RESPONSIBILITY**

The Deputy Chief receiving a report of a work-related accident or 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.

### **617.3 INJURY NOT REQUIRING MEDICAL ATTENTION**

Those injuries and illnesses not requiring medical attention shall be recorded on a Supervisor's Report of Injury form. This form shall be completed and signed by a supervisor.

This form shall be signed by the affected employee, indicating that he/she desired no medical attention at the time of the report. By signing this form, the employee will not preclude his/her ability to seek medical attention later.

# Tehama County Probation Department

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## *Occupational Disease and Work-Related Injury Reporting*

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### 617.3.1 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).

### 617.3.2 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.

### 617.3.3 CHIEF PROBATION OFFICER RESPONSIBILITIES

The Chief Probation Officer shall review and forward copies of the report to the Personnel Department. Copies of the report and related documents retained by the Department shall be filed in the member's confidential medical file.

## Personal Appearance Standards

### 618.1 PURPOSE AND SCOPE

In order to project uniformity and neutrality toward the public and other members of the department, employees shall maintain their personal hygiene and appearance to project a professional image appropriate for this department and for their assignment.

### 618.2 GROOMING STANDARDS

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

#### 618.2.1 HAIR

Hairstyles of all members shall be neat in appearance.

#### 618.2.2 FACIAL HAIR AND SIDEBURNS

Facial hair and sideburns shall be neatly trimmed and professional in appearance.

### 618.3 TATTOOS

While on-duty or representing the [Department/Office] 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/Office] 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.

### 618.4 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.

### 618.5 DRESS STANDARD

It is important that all employees, regardless of their function or assignment, recognize that they represent to the public and other agencies the professional standard and image of this department. Their appearance, therefore, must be one which is in good taste and reflects favorably on the department. Although no absolute criteria can be set forth to prescribe professional dress

# Tehama County Probation Department

Tehama County PO Policy Manual

## *Personal Appearance Standards*

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or appearance, employees should be aware of the need to present a neat, well groomed, and professional image to the courts and the public we serve.

### 618.5.1 MINIMUM STANDARDS

Probation department personnel should not appear any less professional in their appearance that one would find in any office providing face to face service to the public; therefore the following are examples of items that do not meet minimum standards of professional attire:

- (a) Spandex type pants or see-through clothing
- (b) shorts
- (c) Tee shirts & tank tops
- (d) midriff tops
- (e) Open toed sandals/ thongs
- (f) Jogging suits, sweatpants
- (g) Distasteful printed slogans, buttons or pins
- (h) Suggestive attire

### 618.5.2 GUIDELINES

The follow guidelines are set forth for all employees functioning within the Tehama County Probation Department:

- (a) Clothing should be neat and clean at all times.
- (b) Clothing should not be torn, frayed, or in need of repair.
- (c) The style of clothing worn shall not be a revealing or suggestive nature and should not contain messages promoting profanity, illegal activities, or inappropriate behaviors,
- (d) For increased safety, when working in a capacity in which there may be a need to intervene with a probationer, footwear should be of a type that is enclosed, is attached securely to the feet, and has soles that provide good traction.
- (e) No member of the department may wear clothing bearing the department badge logo/ insignia or patch while purchasing/ possessing and or consuming alcoholic beverage in public.
- (f) Members may conduct personal business while wearing clothing bearing the department badge logo/insignia or patch, while traveling to or from work, but are encouraged to use good judgement in engaging in this type of activity. Employees are cautioned that the department badge, logo/insignia or patch clearly identifies their peace officer status or their connection to a law enforcement agency, and this could put you in a situation where probationers, their family or friends, or individual that have a grudge against law enforcement cause a confrontation.
- (g) Members may only wear department issued clothing or clothing bearing the department badge, logo/insignia or patch while off duty, and not traveling to or from work, when permission is granted by the Chief Probation Officer. (Members may only represent the department at special events when granted permission to do so)

# Tehama County Probation Department

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## *Personal Appearance Standards*

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- (h) Short or long sleeve polo style shirts with or without the department badge, logo/ insignia are authorized for members of this department. (Optional). If non-sworn members choose to wear the department badge, their job title will be embroidered below the badge.
- (i) During planned field events such as probation sweeps, search warrant service, assisting allied agencies or similar activities, it is important to be readily identifiable as a peace officer. To accomplish this intent, the outer most top garment will display at a minimum the department badge to the front and "Probation" to the rear. A baseball style hat with the department badge logo/insignia may also be worn but this is not in lieu of the top garment identification.

### 618.5.3 AUTHORIZED EXEPTIONS

- (a) Armed personnel, while wearing body armor and a tactical vest or jacket during field operations, may wear tee shirts beneath the body armor and vest/jacket for the duration of the field operations.
- (b) Other positions or functions designated by the Chief Probation Officer.

### 618.5.4 LIMITED MEDICAL EXEMPTION

Any supervisor may temporarily exempt an employee from the minimum dress standard while performing a specific short term task, specific medical reason, or for training that involves physical participation.

### 618.5.5 COURT ATTIRE

Members of this department appearing in court are expected to be well groomed and professional in appearance. Under no circumstances are shorts or denim allowed while appearing in court.

### 618.5.6 TRAINING

Department personnel are expected to dress appropriately for any given training setting.

### 618.5.7 POLITICAL ACTIVITIES, ENDORSEMENTS, AND ADVERTISEMENTS

Unless specifically authorized by the Chief Probation Officer, Tehama County Probation Department employees may not wear or utilize any department logo/insignia, badge or patch, be photographed wearing any department logo/insignia, badge or patch, or cause to be posted, published, or displayed, the image of another employee, or identify himself/herself as an employee of the Tehama County Probation department to do any of the following (Government Code Section 3206 and 3302)

- (a) Endorse, support, oppose, or contradict any political campaign or initiative.
- (b) Endorse, support, oppose, or contradict any social issue, cause or religion.
- (c) Endorse, support, or oppose, any product, service, company or other commercial entity.
- (d) Appear in any commercial, social, or non-profit publication, or any motion picture, film, video, public broadcast, or any website.

# Tehama County Probation Department

Tehama County PO Policy Manual

## *Personal Appearance Standards*

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### 618.5.8 OPTIONAL EQUIPMENT-MAINTENANCE, AND REPLACEMENT

- (a) Any item that is not provided by this department but has been authorized, or is listed as optional, shall be purchased totally at the expense of the employee. No part of the purchase cost shall be offset by the Department for the cost of providing the Department issued item.
- (b) Maintenance of optional items shall be the financial responsibility of the purchasing employee. For example, repairs due to normal wear and tear.
- (c) Replacement of items listed in this section shall be done as follows:
  - 1. When the item is no longer functional because of normal wear and tear, the employee bears the full cost of replacement.
  - 2. When the item is no longer functional because of damage in the course of the employee's duties, it shall be replaced following the procedures for replacement of damaged personal property (Policy Manual Section 400).

### 618.5.9 SANCTIONS

Each employee's attire is subject to review and approval by management. Members not in compliance with the department dress policy will be directed to change into appropriate attire. Any time away from the job will be on the employee's own time pursuant to the supervisor's discretion. Subsequent violations of this policy are subject to progressive discipline.

### 618.6 EXEMPTIONS

Members who seek cultural (e.g., culturally protected hairstyles) or other exemptions to this policy that are protected by law should generally be accommodated (Government Code § 12926). A member with an exemption may be ineligible for an assignment if the individual accommodation presents a security or safety risk. The Chief Probation Officer should be advised any time a request for such an accommodation is denied or when a member with a cultural or other exemption is denied an assignment based on a safety or security risk.

## Nepotism and Conflicting Relationships

### 619.1 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.

#### 619.1.1 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.

### 619.2 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)):

- (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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## *Nepotism and Conflicting Relationships*

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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) Whenever possible, FTOs and other trainers should not be assigned to train relatives. FTOs and other trainers are prohibited from entering into or maintaining personal or business relationships with any employee they are assigned to train until such time as the training has been successfully completed and the employee is off probation.
  - (d) To avoid actual or perceived conflicts of interest, members of this 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.
  - (e) Except as required in the performance of official duties or, in the case of immediate relatives, employees shall not develop or maintain personal or financial relationships with any individual they know, participates in criminal street activity, or reasonably should know is under criminal investigation, is a convicted felon, probationer, parolee, fugitive or registered sex offender or who engages in serious violations of state or federal laws.

### 619.2.1 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 another uninvolved employee and have them either relieve the involved employee or minimally remain present to witness the action.

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## *Nepotism and Conflicting Relationships*

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### 619.2.2 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. A determination will be made and documented whether a violation exists.

## Department Badges

### 620.1 PURPOSE AND SCOPE

The Tehama County Probation Department badge and uniform patch as well as the likeness of these items and the name of the Tehama County Probation Department are property of the Department and their use shall be restricted as set forth in this policy.

### 620.2 POLICY

The uniform badge shall be issued to department members as a symbol of authority and the use and display of departmental badges shall be in strict compliance with this policy. Only authorized badges issued by this department shall be displayed, carried or worn by members while on duty or otherwise acting in an official or authorized capacity.

#### 620.2.1 FLAT BADGE

Sworn deputy probation officers, with the written approval of the Chief Probation Officer may purchase, at his/her own expense, a flat badge capable of being carried in a wallet. The use of the flat badge is subject to all the same provisions of departmental policy as the uniform badge.

- (a) A deputy probation officer may sell, exchange, or transfer the flat badge he/she purchased to another deputy probation officer within the Tehama County Probation Department with the written approval of the Chief Probation Officer.
- (b) Should the flat badge become lost, damaged, or otherwise removed from the deputy probation officer's control, he/she shall make the proper notifications as outlined in Department Owned and Personal Property § 400.
- (c) An honorably retired deputy probation officer may keep his/her flat badge upon retirement.
- (d) The purchase, carrying or display of a flat badge is not authorized for non-sworn personnel.

#### 620.2.2 NON-SWORN PERSONNEL

Departmental identification cards issued to non-sworn personnel shall be clearly marked to reflect the position of the assigned employee.

- (a) Non-sworn personnel shall not display any department badge except as a part of his/her optional polo shirt and while on duty, or otherwise acting in an official and authorized capacity.
- (b) Non-sworn personnel shall not display any department badge or represent him/herself, on or off duty, in such a manner which would cause a reasonable person to believe that he/she is a sworn peace officer.

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Tehama County PO Policy Manual

## *Department Badges*

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### **620.3 UNAUTHORIZED USE**

Except as required for on-duty use by current employees, no badge designed for carry or display in a wallet, badge case or similar holder shall be issued to anyone other than a current peace officer.

Department badges are issued to all sworn employees for official use only. The department badge, shoulder patch or the likeness thereof, or the department name shall not be used for personal or private reasons including, but not limited to, letters, memoranda, and electronic communications such as electronic mail or web sites and web pages.

The use of the badge, shoulder patch and department name for all material (printed matter, products or other items) developed for department use shall be subject to approval by the Chief Probation Officer.

Employees shall not loan his/her department badge, shoulder patch or identification card to others and shall not permit the badge or identification card to be reproduced or duplicated.

### **620.4 PERMITTED USE BY EMPLOYEE GROUPS**

The likeness of the department badge shall not be used without the expressed authorization of the Chief Probation Officer and shall be subject to the following:

- (a) The employee associations may use the likeness of the department badge for merchandise and official association business provided they are used in a clear representation of the association and not the Tehama County Probation Department. The following modifications shall be included:
  - 1. The text on the upper and lower ribbons is replaced with the name of the employee association.
  - 2. The badge number portion displays the acronym of the employee association.
- (b) The likeness of the department badge and or shoulder patch for endorsement of political candidates shall not be used without the expressed approval of the Chief Probation Officer.

## Temporary Modified-Duty Assignments

### 621.1 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.

### 621.2 POLICY

Subject to operational considerations, the Tehama 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.

### 621.3 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 Tehama 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.

### 621.4 PROCEDURE

Employees may request a temporary modified-duty assignment for short-term injuries or illnesses.

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## *Temporary Modified-Duty Assignments*

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Employees seeking a temporary modified-duty assignment should submit a written request to their Division Deputy Chief 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 Deputy Chief 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 Personnel Department or the County Counsel as appropriate.

Requests for a temporary modified-duty assignment of 20 hours or less per week may be approved and facilitated by the Deputy Chief with notice to the Chief Probation Officer.

### **621.5 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 Deputy Chief.

#### **621.5.1 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 Deputy Chief 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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## *Temporary Modified-Duty Assignments*

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### 621.5.2 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 Deputy Chief of the status and performance of employees assigned to temporary modified duty.
- (b) Notifying the Deputy Chief and ensuring that the required documentation facilitating a return to full duty is received from the employee.
- (c) Ensuring that employees returning to full duty have completed any required training and certification.

### 621.6 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.

### 621.7 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.

#### 621.7.1 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.

### 621.8 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.

### 621.9 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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## *Temporary Modified-Duty Assignments*

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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

## **622.1 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 deputy probation 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.

### **622.1.1 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.

## **622.2 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 Tehama 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.

## **622.3 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 Tehama 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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## *Employee Speech, Expression and Social Networking*

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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 a deputy probation officer who is working undercover.
- Disclosing the address of a fellow deputy probation officer.
- Otherwise disclosing where another deputy probation officer can be located off-duty.

### **622.4 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 Deputy Probation 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 Tehama 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 Tehama County Probation Department and tends to compromise or damage the mission, function, reputation or professionalism of the Tehama 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 Tehama 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 for financial or personal gain, or any disclosure of such materials without the express authorization of the Chief Probation Officer or the authorized designee.

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## *Employee Speech, Expression and Social Networking*

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- (g) Posting, transmitting or disseminating any photographs, video or audio recordings, likenesses or images of department logos, emblems, uniforms, badges, patches, department vehicles, equipment or other material that specifically identifies the Tehama 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).

### 622.4.1 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 Deputy Probation Officer associations, employees may not represent the Tehama County Probation Department or identify themselves in any way that could be reasonably perceived as representing the Tehama 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 Deputy Probation 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 Tehama County Probation Department.

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 Deputy Probation Officer associations, on political subjects and candidates at all times while off-duty.

# Tehama County Probation Department

Tehama County PO Policy Manual

## *Employee Speech, Expression and Social Networking*

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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).

### **622.5 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).

### **622.6 CONSIDERATIONS**

In determining whether to grant authorization of any speech or conduct that is prohibited under this policy, the factors that the Chief Probation Officer or authorized designee should consider include:

- (a) Whether the speech or conduct would negatively affect the efficiency of delivering public services.
- (b) Whether the speech or conduct would be contrary to the good order of the Department or the efficiency or morale of its members.
- (c) Whether the speech or conduct would reflect unfavorably upon the Department.
- (d) Whether the speech or conduct would negatively affect the member's appearance of impartiality in the performance of his/her duties.
- (e) Whether similar speech or conduct has been previously authorized.
- (f) Whether the speech or conduct may be protected and outweighs any interest of the Department.

### **622.7 TRAINING**

Subject to available resources, the Department should provide training regarding employee speech and the use of social networking to all members of the Department.

## Sworn Staff - Dress Standards

### 623.1 PURPOSE AND SCOPE

Personal appearance and dress of the Probation Department employees shall project a positive and professional image to the public and is expected to be compatible with assigned duties and responsibilities. The uniform shall be the primary dress for employees receiving the uniform allowance. However, there may be circumstances where business casual or business professional attire would be more appropriate such as individual assignments, meetings and court appearances. The dress code shall remain in effect unless otherwise modified by the Chief Probation Officer.

### 623.2 UNIFORM ALLOWANCE

Pursuant to the Tehama County Peace Officers Association Memorandum of Understanding, (Section 21.2 Uniform Allowance) effective August 1, 2016, and each July thereafter, Deputy Probation Officers and Juvenile Detention Facility Corrections Counselors covered under the MOU shall receive an advance payment for the uniform allowance for the following fiscal year. Therefore, employees are responsible for purchasing clothing, jackets and footwear that are within compliance of this policy. The department will bear the cost of safety equipment for sworn officers. Juvenile detention facility staff have a separate policy.

### 623.3 SWORN STAFF STANDARD UNIFORM AND DRESS CODE

The dress standard for sworn staff is the uniform.

#### 1. Primary Uniform

- a. **Shirt** - The uniform shirt shall be a short/long sleeve tactical variety polo shirt bearing the department authorized insignia/logo. Shirts may also bear the officer's name. The shirt color shall be black or dark blue. Undershirts, if worn, shall be white or black.
- b. **T-Shirt** - The uniform T-shirt shall be a short/long sleeve with a department authorized insignia/logo on the chest. The T-shirt will only be worn during field operations or during active/physical training. T-shirt color shall be black.
- c. **Pant** - The uniform pant shall be a tactical BDU variety. Pant color shall be black, green or khaki.
- d. **Shoes/Boots** - Shall be of a sturdy variety, rubber soled, neutral in color, and not open toe.
- e. **Hats** - shall be black baseball with the Probation Department insignia/logo on the front with the option of the officer's name and badge number on the back. Hats shall only be worn when performing field operations and/or needed to protect from the elements.
- f. **Field Jacket** - shall be black with the Probation Department insignia/logo and placard reading "PROBATION" on the front. Jackets may bear the officer's name.

# Tehama County Probation Department

Tehama County PO Policy Manual

## Sworn Staff - Dress Standards

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### 2. Business Casual

- a. Shirt - shall include a short/long sleeve black tactical variety polo shirt bearing the department insignia/logo, button down shirts, polo shirts, or blouses.
- b. Pant - shall include dress slacks or khaki style pants or dress/skirt.
  
- c. Shoes/Boots - shall be of a sturdy variety, rubber soled, neutral in color, not open toe and be appropriate for business casual attire.

### 3. Business Professional

- a. Shirt - shall include a button down shirt, tie or blouse.
- b. Pant - shall include dress slacks, dress/skirt.
- c. Jacket - shall include suit or sport coat.
- d. Shoes/Boots - shall be of a sturdy variety, neutral in color, not open toe and appropriate for business professional attire.

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## Outside Employment and Incompatible Activities

### 624.1 PURPOSE AND SCOPE

Tehama County recognizes employees may want to engage in outside employment. Employees of the Tehama County are permitted to engage in outside work, subject to certain restrictions.

### 624.2 DEFINITIONS

Incompatible activities - Any activities prohibited under the Guidelines section of this Rule.

Outside employment - Any work or service, other than County employment, for which the employee accepts compensation, including but not limited to: other paid employment, self-employment, or an ownership interest in a private business.

Volunteer Service - Any work or service for which the employee does not accept compensation, usually provided in the form of labor for a community event or organization.

### 624.3 GUIDELINES

Tehama County is considered the primary employer. An employee's outside employment and volunteer service may be restricted if:

- The employee uses County time, facilities, equipment, supplies, property, vehicles, tools, badge, uniform, influence, certificates/licenses provided under or sponsored by Tehama County, or prestige of the employee's position for personal profit or advantage.
- The employee performs any work, service, or counsel that involves the receipt or acceptance of money or other consideration from any person or agency other than the County for the performance of an act that is required of the employee as part of their regular County duties.
- The employee performs any act in other than his/her capacity as a County employee which may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee of the County and there is likelihood of potential favoritism, selective enforcement, or misuse of County information. An example of this would be to serve on a steering committee board of a public or private foundation which is funded, contracted, or administered by a County agency.
- It results in poor job performance, absenteeism, tardiness, or unnecessary distractions such as communications during paid working hours.
- It involves the availability of County information which would not be available to the general public.
- It improperly represents the service provided as a service of the County or as endorsed by the County.
- It implies the employee will use his/her position with the County to further the interests or goals of an individual, company, or firm doing business with the County.

# Tehama County Probation Department

Tehama County PO Policy Manual

## *Outside Employment and Incompatible Activities*

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- It involves activities rendered to County clients for private compensation which are expected to be rendered in the course of duties of the County employee.
- The service is one mandated by the County as part of a treatment or punitive program. An example of this would be for a County employee to mandate counseling as treatment under a County drug and alcohol recovery program, and then providing the counseling as a private practitioner.

### **624.4 PROCEDURE**

Responsibilities for implementation, application, and enforcement of this rule are listed below.

#### **EMPLOYEE:**

**Notice to Department Head** - Employees who wish to engage in outside employment or volunteer work that is substantially similar in nature to their County employment, or possibly creates a conflict of interest shall submit a completed Request to Approve Outside Employment form to their department head prior to engaging in such activity. Department Heads who wish to engage in outside employment shall submit a completed Request to Approve Outside Employment form to the Chief Administrator. Employees who were engaged in outside employment prior to the creation of this Rule must submit a completed Request for Outside Employment form to their Department Head within 30 working days of receiving notice of the approval of this Personnel Rule.

Receipt and filing of the Request to Approve Outside Employment form does not constitute approval of such outside employment by the Department Head. The Department Head will provide approval or denial of the request in writing to the employee within 10 working days.

The employee's failure to provide notification as required may be cause for disciplinary action pursuant to the provisions of this Personnel Rule. An employee's failure to comply with a written order to cease outside employment or volunteer services may be cause for disciplinary action.

**If request is approved** - Any County employee who is a member, officer or director of a corporation, including non-profit, shall recuse him/herself from any involvement in establishing or influencing any contractual relationship between the County and the corporation, including making or influencing decisions regarding whether to enter into a contractual relationship, procurement, contract drafting or negotiation, or monitoring of the contractor's performance, unless statutorily authorized to do so.

**If request is denied** - Employees shall have the right to appeal an order to cease outside employment by submitting an appeal in writing to the review committee by way of the Personnel Director. The written appeal must be submitted within 10 working days of the employee's receipt of the order to cease outside employment. The appeal should present evidence or argument in opposition that the employee is engaging in incompatible activities.

#### **DEPARTMENT HEAD:**

Upon receipt of a Request to Approve Outside Employment form, the Department Head will review the request for potential interference with the employee's performance of his/her regularly assigned job duties and compliance with this Personnel Rule. The nature of the employee's

# Tehama County Probation Department

Tehama County PO Policy Manual

## *Outside Employment and Incompatible Activities*

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proposed secondary employment cannot in and of itself prevent an employee from being allowed to pursue the secondary employment. The Department Head shall notify the employee in writing, within 10 working days of receipt of the request whether the request has been approved or denied. If the request is denied, the Department Head shall provide reasons for such decision.

If the Department Head believes that the secondary employment has caused the employee's overall work performance to drop below a satisfactory performance level the supervisor must first approach the matter with the employee as a performance issue and provide the employee adequate time to demonstrate improved performance.

If, within a reasonable period of time, the employee's performance continues to be below satisfactory, and if the Department Head believes that the secondary employment is the cause of these performance problems, the Department Head may deny the employee's secondary employment. The Department should allow the employee a reasonable amount of time to give notice of termination to the secondary employer. An employee's refusal to end his/her secondary employment as directed by this rule is considered a matter of personal misconduct and may be subject to disciplinary actions, up to and including dismissal.

A Department Head may order an employee to cease working at any volunteer work or outside employment if the employment is in violation of any of the provision of this Rule. The Department Head may immediately demand suspension of the outside employment pending the final determination of the incompatibility.

### **PERSONNEL:**

The Personnel Department will place any requests, approvals, denials, or appeals for Outside Employment in the employee's personnel file.

### **REVIEW COMMITTEE:**

The Personnel Director, Chief Administrator, County Counsel, and a Department Head not involved in the matter shall act as a review committee in the event an employee is denied outside employment/activities and wishes to appeal. The review committee will review the order to cease outside employment and the employee's written appeal. The review is not a formal hearing. The review committee must provide a recommendation within 10 working days of receipt of the written appeal. The committee recommendation is not binding on the Department Head and nothing in this policy is intended to interfere with a Department Head's authority. Should a Department Head reject the committee's recommendation and require that the employee cease the outside employment and/or activity such action would not constitute a violation of this Personnel Rule.

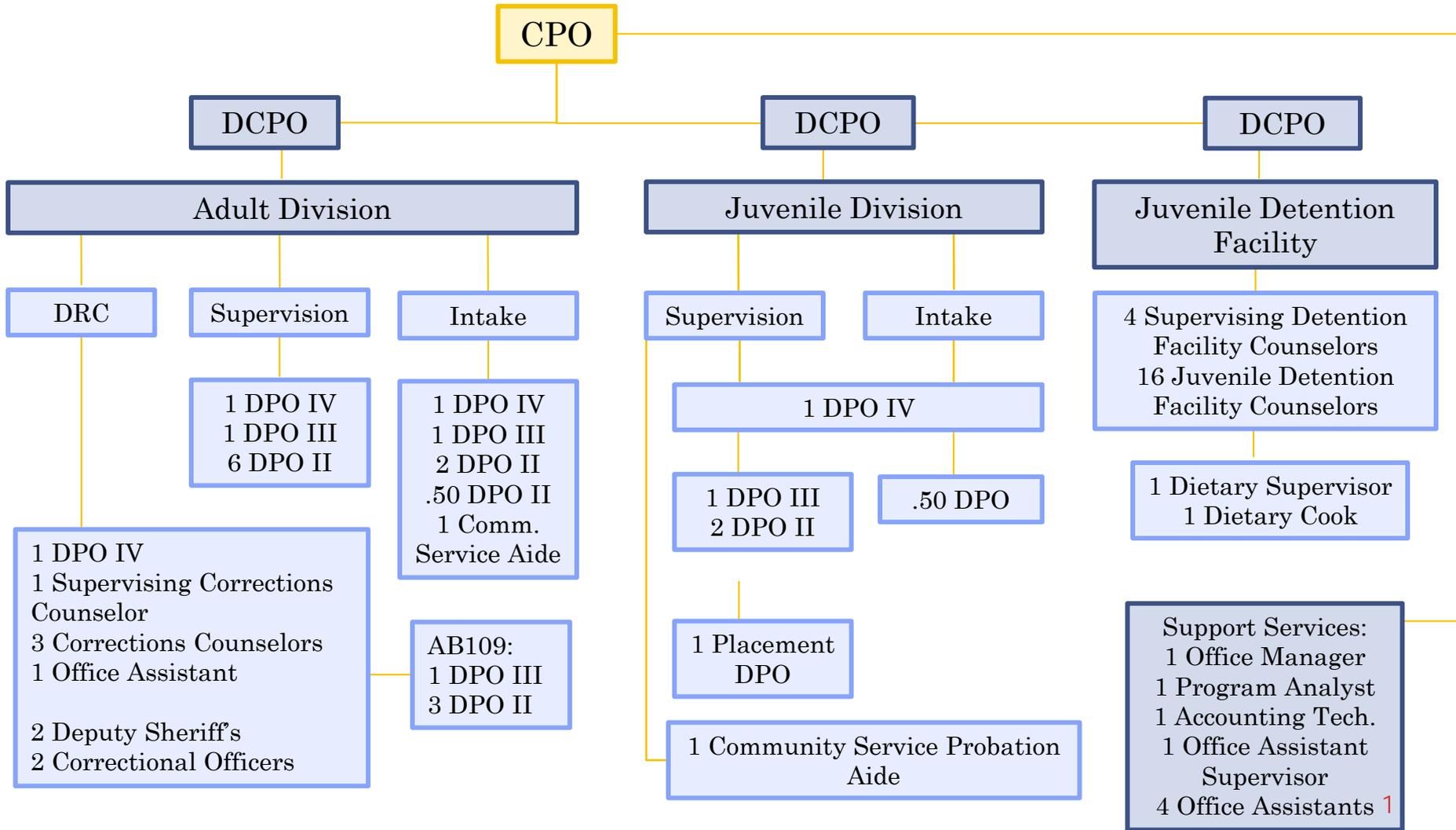
## Attachments

**Commission on Peace Officer Standards and  
Training Hate Crimes Model Policy 2019.pdf**

## Department Organization Chart.pdf



# ORGANIZATION CHART



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