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.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

MISSION STATEMENT AND VALUES STATEMENT

From the Chief Investigator to the newest member, our values guide our work and decisions, help us contribute to the quality of life in Santa Clara County, and promote a positive work environment. Our investigations will be bound by the following values:

(a) We respect the constitutional rights of every individual and treat all people with dignity, fairness and respect.

(b) We identify and actively respond to the needs of the Office of the District Attorney as related to the investigative function.

(c) We strive to achieve the highest degree of public confidence resulting from sound policies, practices, integrity and the professional competency of the Bureau of Investigation.

(d) We encourage sound, consistent judgment and teamwork in all areas of the Bureau of Investigation and relationships with other law enforcement agencies.

(e) We recognize diversity as strength.

(f) We value personal and professional growth through education and training.

(g) We continually evaluate our level of performance so that it remains consistent with the changing needs of the community, the law and the Office of the District Attorney.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Table of Contents

Law Enforcement Code of Ethics 1

Mission Statement and Values Statement 2

Chapter 1 - Law Enforcement Role and Authority 6

100 - Law Enforcement Authority 7
101 - Mission and Values Statement 10
102 - Chief Executive Officer 11
103 - Law Enforcement Code of Ethics 12
104 - Oath of Office 13
105 - Policy Manual 14
106 - Interim Directive 18
107 - Identification as a District Attorney Investigator 19
108 - Responsibilities of Bureau of Investigation Staff 20
109 - Official Correspondence 24

Chapter 2 - Organization and Administration 26

200 - Organizational Structure and Responsibility 27
201 - New Investigator Orientation 29
202 - Training Policy 31
203 - Bureau of Investigation Work Hours 34
204 - Availability while On Duty 36
205 - Overtime Compensation Requests 37
206 - Vacation/Leave Requests 38
207 - Reassignment Policy 39
208 - Conflict of Interest Concerning Outside Employment 41
209 - Change of Address/Phone Number 43
210 - Employee Travel Authorization and Reimbursement 44
211 - Career Incentive Program (CIP) 46
212 - County Driver Permits and Use of Private Vehicles 47
213 - Use of Public Safety Radio 52
214 - Use of Controlled Information 54
215 - Retiree Concealed Firearms 57
216 - Occupational Disease and Work-Related Injury Reporting 62
217 - Blood Borne Pathogens Exposure Control Plan 65
218 - Use and Application of Naloxone 69
219 - Use of the District Attorney Special Fund 73
220 - Bureau Credit Card Use Requirements 74

Chapter 3 - Personnel 77

300 - Press and Media Relations 78
301 - Gratuities 79
302 - Personal Appearance Standards 80
303 - Reporting Responsibilities 83

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

304 - Personnel Complaints 86
305 - Standards of Conduct 100
306 - Discriminatory Harassment 108
307 - Recruitment and Selection 115

Chapter 4 - General Operations 128

400 - Arrest Policy 129
401 - Use of Force 133
402 - Handcuffing and Restraints 142
403 - Control Devices and Techniques 146
404 - Investigator-Involved Incidents 150
405 - Firearms 161
406 - Duty to Warn 175
407 - Search and Seizure 176
408 - Custodial Searches 178
409 - Juvenile Booking Criteria 184
410 - Temporary Custody of Juveniles 187
411 - Foreign Nationals and Diplomatic Immunity 201
412 - Cite and Release Policy 203
413 - Vehicle Pursuits 210
414 - Use of Red Light and Siren/Emergency Response 222
415 - Notification of Security Alerts 224
416 - Bomb Threats 225
417 - Disaster Plan 229
418 - Hazardous Material Response 230

Chapter 5 - Investigation Operations 232

500 - Initiation of Investigations 233
501 - Case Integrity 236
502 - Retention of Investigator Notes 237
503 - Investigation Case Closure 238
504 - Removal of Confidential Information with Reports Filed with the Court . . . 239
505 - Subpoena and Interview of Juveniles 241
506 - Detention and Photographing Detainees 242
507 - Eyewitness Identification 246
508 - Public Recording of Law Enforcement Activity 251
509 - Search Warrant, Probation, and Parole Searches 254
510 - Covert Operations 268
511 - Use of Cold Internet Protocol (IP) Address Computer 269
512 - Communication with Represented and/or In-Custody Persons 270
513 - Inmate Requests for Service or Contact 273
514 - Informants 274
515 - Recording of Communication 278
516 - Copy or Viewing Pornographic Material 279
517 - Obtaining Records from the Clerk - Recorder's Office 281
518 - Fugitives located in Foreign Countries 283
519 - Homicide Investigations 284

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

520 - Domestic Violence 285
521 - Child Abuse 292
522 - Sensitive Cases 300
523 - Certificate of Rehabilitation and Pardons 301
524 - Bail Bond Background 305
525 - Background Investigations 306

Chapter 6 - Equipment 308
600 - Equipment Room and Supplies 309
601 - Property Room Evidence Storage Access 310
602 - Property and Evidence 314
603 - Body Armor 328
604 - Disposition of Bureau Firearms 330
605 - Safety Equipment and Property 332
606 - Security Cameras 333
607 - ALPR End-User Policy 337
608 - Use of County Vehicles 338

Attachments 342
Statutes and Legal Requirements.pdf 343
PPM 507 Sequential Line Up Form (859.7PC).pdf 344
Bureau of Investigation Credit Card Use Form.pdf 345
514 Informant Management Documents.pdf 346
Commission on Peace Officer Standards and Training Hate Crimes Model Policy 2019.pdf 347
Naloxone Attachments.pdf 348
PPM 217 Hepatitis Vaccination Form.pdf 349
PPM 216 DWC-1 2016.pdf 350
PPM 404 Officer Involved Incident Guidelines 2016.pdf 351
PPM 517 Request for an Authorized Certified Copy of Record.pdf 352
PPM 607 DA ALPR Policy.pdf 353
PPM 216 SCC Injury Report Form.pdf 354
Custody Policy 14 17 Inmate Rights LGBTQI Inmates.pdf 355
PPM 216 SCC Injury Report Form Form 5020.pdf 356
PPM 517 Fee Transfer Authorization Form.pdf 357
PPM 216 SCC Injury Report Form 5020.pdf 358
PPM 507 Sequential Line Up Form.pdf 359
PPM 517 Official Records Order Form.pdf 360
Hate Crime Checklist.pdf 361

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Chapter 1 - Law Enforcement Role and Authority

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Law Enforcement Authority

100.1 PURPOSE AND SCOPE

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

100.2 POLICY

It is the policy of the Santa Clara County District Attorney's Office, Bureau of Investigation to limit its members to only exercise the authority granted to them by law.

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

100.3 PEACE OFFICER POWERS

Sworn members of this office shall be considered peace officers pursuant to applicable state law (Penal Code § 830.1 et seq).

100.3.1 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE SANTA CLARA COUNTY DISTRICT ATTORNEY'S OFFICE, BUREAU OF INVESTIGATION

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

(a) When the investigator has probable cause to believe the person has committed a felony, whether or not committed in the presence of the investigator.

(b) When the investigator has probable cause to believe the person has committed a misdemeanor in this jurisdiction and in the presence of the investigator.

(c) When the investigator has probable cause to believe the person has committed a public offense outside this jurisdiction, in the presence of the investigator and the investigator reasonably believes there is an immediate danger to person or property, or of escape.

(d) When the investigator has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized or required by statute even though the offense has not been committed in the presence of the investigator such as certain domestic violence offenses.

(e) In compliance with an arrest warrant.

100.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE SANTA CLARA COUNTY DISTRICT ATTORNEY'S OFFICE, BUREAU OF INVESTIGATION

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

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

(b) When the investigator has probable cause to believe the person has committed a misdemeanor in the presence of the investigator and the investigator reasonably believes there is immediate danger to person or property or of escape.

(c) When the investigator has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the investigator such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.

(d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.

(e) In compliance with an arrest warrant.

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

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

100.3.3 DELIVERY TO NEAREST MAGISTRATE

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

100.3.4 TIME OF MISDEMEANOR ARRESTS

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

(a) The arrest is made without a warrant pursuant to Penal Code § 836 which includes:

1. A misdemeanor committed in the presence of the investigator.
2. Misdemeanor domestic violence offenses (See the Domestic Violence Policy).

(b) The arrest is made in a public place.

(c) The arrest is made with the person in custody pursuant to another lawful arrest.

(d) The arrest is made pursuant to a warrant which, for good cause shown, directs that it may be served at any time of the day or night.

100.3.5 OREGON AUTHORITY

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(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.

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

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

100.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

(a) As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.

(b) When an investigator enters an adjoining state in close or fresh pursuit of a person believed to have committed a felony (ARS § 13-3832; NRS 171.158; ORS 133.430).

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

100.5 CONSTITUTIONAL REQUIREMENTS

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Mission and Values Statement

101.1 PURPOSE AND SCOPE

The mission of the Bureau of Investigation is to provide quality and timely investigation and support for the prosecutorial functions of the Office of the District Attorney.

101.2 SECTION TITLE

From the Chief Investigator to the newest member, our values guide our work and decisions, help us contribute to the quality of life in Santa Clara County, and promote a positive work environment. Our investigations will be bound by the following values:

(a) We respect the constitutional rights of every individual and treat all people with dignity, fairness and respect.

(b) We identify and actively respond to the needs of the Office of the District Attorney as related to the investigative function.

(c) We strive to achieve the highest degree of public confidence resulting from sound policies, practices, integrity and the professional competency of the Bureau of Investigation.

(d) We encourage sound, consistent judgment and teamwork in all areas of the Bureau of Investigation and relationships with other law enforcement agencies.

(e) We recognize diversity as strength.

(f) We value personal and professional growth through education and training.

(g) We continually evaluate our level of performance so that it remains consistent with the changing needs of the community, the law and the Office of the District Attorney.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Chief Executive Officer

102.1 PURPOSE AND SCOPE

The California Commission on Peace Officer Standards and Training (POST) has mandated that all sworn officers and dispatchers employed within the State of California shall receive certification by POST within prescribed time periods.

102.1.1 CHIEF EXECUTIVE OFFICER REQUIREMENTS

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Law Enforcement Code of Ethics

103.1 POLICY

The Bureau of Investigation, as a professional law enforcement entity, subscribes, and adheres, to the ethical standards set forth in the Law Enforcement Code of Ethics.

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.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Oath of Office

104.1 PURPOSE AND SCOPE

Investigators of this department are sworn to uphold the federal and state constitutions and to enforce federal, state and local laws.

104.2 OATH OF OFFICE

Upon employment, all sworn employees 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.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Policy Manual

105.1 PURPOSE AND SCOPE

The manual of the Santa Clara County District Attorney's Office, Bureau of Investigation is hereby established and shall be referred to as "The Policy Manual" or the manual. The manual is a statement of the current policies, procedures, rules and guidelines of this Bureau. All employees 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.

105.2 POLICY

This manual is to be viewed as a companion document to the overarching policies and procedures that govern all Office of the District Attorney employees, as outlined in the SCCDA Policy and Procedure Manual.

105.2.1 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 Santa Clara County District Attorney's Office, Bureau of Investigation and shall not be construed to create a higher standard or duty of care for civil or criminal liability against the County of Santa Clara, its officials or members. Violations of any provision of any policy contained within this manual shall only form the basis for Bureau administrative action, training or discipline. The Santa Clara County District Attorney's Office, Bureau of Investigation reserves the right to revise any policy content, in whole or in part.

105.3 AUTHORITY

The Chief Investigator, under the direction of the District Attorney, shall be considered the ultimate authority for the content and adoption of the provisions of this manual and shall ensure compliance with all applicable federal, state and local laws. The Chief Investigator or the authorized designee is authorized to issue 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.

105.3.1 COMMAND STAFF/SUPERVISORS

Command Staff/Supervisors shall consist of the following:

- Chief Investigator
- Lead Supervising Criminal Investigator ("Captain")
- Supervising Criminal Investigator ("Lieutenant")

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

The Command Staff/Supervisors shall review all recommendations regarding proposed changes to the manual at staff meetings.

105.3.2 OTHER PERSONNEL
All Department employees suggesting revision to the contents of the Policy Manual shall forward their written suggestion, with a cover transmittal, to their lieutenant who will review and forward the suggestion to the Captain for final review. The Captain will respond in writing to the "suggesting" employee as to the decision whether to incorporate part, all, or none of the employee's suggestion.

105.3.3 FORMATTING CONVENTIONS FOR THE POLICY MANUAL
The purpose of this section is to provide examples of abbreviations and definitions used in this manual.

105.3.4 ACCEPTABLE ABBREVIATIONS
The following abbreviations are acceptable substitutions in the manual:

- Interim Directives may be abbreviated as "ID"
- Policy Manual sections may be abbreviated as "Section 105.X" or "§ 105.X"

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

Adult - Any person 18 years of age or older.

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

CHP- The California Highway Patrol.

CFR - Code of Federal Regulations.

County - The County of Santa Clara County.

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

Department/BOI - The Santa Clara County District Attorney's Office, Bureau of Investigation.

Departmental Directive - Interim Directive.

DMV - The Department of Motor Vehicles.

Employee/personnel - Any person employed by the Bureau of Investigation.

Juvenile- Any person under the age of 18 years.

Manual - The Santa Clara County District Attorney's Office, Bureau of Investigation Policy Manual.

May - Indicates a permissive, discretionary or conditional action.

Member - Any person employed or appointed by the Santa Clara County District Attorney's Office, Bureau of Investigation, including full-time sworn investigators, civilian employees and volunteers.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

Office - The Santa Clara County District Attorney's Office.

Investigator/Sworn - Those employees, regardless of rank, who are sworn peace officers of the Santa Clara County District Attorney’s Office, Bureau of Investigation.

On-duty - A employee'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.

Policy Manual - The Policy Manual for the Bureau of Investigation.

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

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

Shall or will - Indicates a mandatory action.

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

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.

USC - United States Code.

105.5 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 Investigator or the authorized designee.

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

105.6 PERIODIC REVIEW OF THE POLICY MANUAL

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

105.7 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.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney’s Office, Bureau of Inves igation

Policy Manual

Each Lieutenant 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 Lieutenants, who will consider the recommendations and forward them to the command staff as appropriate.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Interim Directive

106.1 PURPOSE AND SCOPE

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

106.1.1 INTERIM DIRECTIVE PROTOCOL

Interim Directives will be incorporated into the manual as required upon approval of Command Staff. 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.

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, 20-01 signifies the first Interim Directive for the year 2020.

106.2 RESPONSIBILITIES

106.2.1 STAFF

The Command Staff shall review and approve revisions of the Policy Manual, which will incorporate changes originally made by a Interim Directive.

106.2.2 CHIEF INVESTIGATOR

The Chief Investigator shall issue all Interim Directives.

106.3 ACCEPTANCE OF DEPARTMENTAL DIRECTIVES

All employees are required to read and obtain any necessary clarification of all Interim Directives.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Identification as a District Attorney Investigator

107.1 PURPOSE AND SCOPE

Official identification refers to the employee's badge, picture identification, business cards or any other item that identifies the person as an employee of this office.

107.2 PROCEDURE

Personnel assigned to the Bureau of Investigation (BOI) will remain cognizant of SCCDA Policy and Procedure Manual Section 5.01(b)(ii)6 - **Use of Office Identification, Insignia and Letterhead.**

BOI employees will always carry on their person, while on duty, their regularly issued identification card and badge, if a badge is issued. BOI employees will properly and courteously display these credentials in those situations where the provision of professional identification is appropriate.

BOI personnel will not exhibit, nor publicly announce their position, except on official business pertaining to the Office of the District Attorney, or in situations where the employee determines that identification as a representative of the Office of the District Attorney is appropriate and in accordance with office policy.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Responsibilities of Bureau of Investigation Staff

108.1 PURPOSE AND SCOPE

The principal responsibility of the District Attorney investigator is to investigate and report on any and all matters assigned by the Chief Investigator or a Supervising Investigator.

When an assistant district attorney or a deputy district attorney initiates investigation requests, the assigned investigator shall work closely with the requesting attorney. Written or oral reports should be provided to the requesting attorney, keeping the attorney apprised of the course and status of the investigation.

Investigators may become aware of violations of the law or circumstances that warrant an investigation. The nature of these violations or circumstances should be presented to the Chief Investigator or the unit supervisor. Investigators will not initiate and pursue investigations without the prior approval of the Chief Investigator or a Supervising Investigator. Normally, this approval will be in the form of an official investigation request.

Investigators, who are sworn peace officers, may be placed in circumstances where law enforcement intervention is necessary. Investigators are therefore expected to have a working knowledge of the law and expected to use good judgment at all times. Subsequent to being involved in such an incident, the investigator will immediately notify the Chief Investigator or the unit's Supervising Investigator about the incident and the action taken. The investigator involved will submit a detailed written report of the incident as soon as practical.

Investigators must make all reasonable efforts to conform to the time restrictions placed upon an assigned investigation. Should the investigator be unable to complete the assigned investigation or particular job task prior to deadline the investigator will notify the unit's Team Leader (or division lieutenant if the Team Leader is unavailable) and the affected prosecutor.

It is the responsibility of the assigned investigator to properly maintain the investigation file. The investigation file will be maintained in such a manner that another investigator could assume the investigation at any given stage of the investigation.

Investigators have the responsibility of assisting the requesting prosecutor to prepare the case for court. Preparation for court may include presenting clear and accurate reports, collecting and preserving evidence, subpoena service, locating and interviewing persons involved, transporting witnesses, providing security for victims or witnesses, arranging for witness lodging and meals, and other tasks that would be necessary to prepare the case for trial.

Investigators, when conducting investigations, must remember that their primary duty is to ascertain the truth with regard to the matter under investigation. The investigator should gather all facts available during an investigation including those that tend to vindicate the accused. All facts and information garnered, all interviews conducted, all observations made, and all evidence seized during the course of an investigation should be detailed in written investigation reports.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

District Attorney Investigators are responsible only to the District Attorney. Investigators should not place themselves in positions where they are responsible to any other agency, unless the District Attorney or Chief Investigator approves such action.

Should the investigator feel, at any time, that the assigned investigation has been compromised in any way, a detailed accounting should be made to the Chief Investigator via the chain of command.

District Attorney Legal Process Officers and clerical support staff are civilian members of the Bureau of Investigation and, as such, are governed by the policies and procedures of this manual and will adhere to the provisions of all Bureau policies applicable to their positions.

District Attorney Legal Process Officers must make all reasonable efforts to conform to the time restrictions placed on the service of assigned documents or other job tasks. Should the District Attorney Legal Process Officer be unable to complete the document service or particular job task prior to the deadline he/she will notify the unit's Team Leader (or division lieutenant if the Team Leader is unavailable) and the affected prosecutor.

108.2 ASSISTANT INVESTIGATORS

Assistant investigators are not sworn peace officers and therefore do not have the powers, duties or responsibilities of peace officers. Assistant investigators will be assigned job tasks consistent with their non-peace officer status. Assistant investigators may be assigned to serve subpoenas, locate and interview witnesses, collect and preserve evidence, transport witnesses, assist in case preparation for court, write investigative reports and other such job tasks. Assistant investigators will not serve arrest warrants, search warrants, file complaints or perform job tasks that require peace officer powers.

108.3 CRIMINAL INVESTIGATORS

Criminal Investigators are peace officers pursuant to Penal Code Section 830.1, having all the power, authority and responsibilities of California State Peace Officers as defined by those sections.

108.3.1 CRIMINAL INVESTIGATOR I

Criminal Investigator I represents the entry level in the Criminal Investigator series. Criminal Investigator I's work under immediate supervision while acquiring the knowledge, skills and work experience required to become a fully qualified journey level Criminal Investigator II.

108.3.2 CRIMINAL INVESTIGATOR II

Criminal Investigator II is distinguished from the next lower class of Criminal Investigator I in that Criminal Investigator II represents the fully qualified journey-level investigator while the Criminal Investigator I represents the entry level.

108.3.3 SENIOR CRIMINAL INVESTIGATOR

Senior Criminal Investigator (Team Leader) is a Criminal Investigator II with lead pay and is distinguished from the position of Criminal Investigator II in that Senior Criminal Investigators will

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

be required to assume the responsibility of the supervision of an investigative unit or division during the absence of that division's lieutenant. Senior Criminal Investigators may also be tasked with assigning work to fellow unit members, with reviewing staff work product and with providing training to Bureau staff or other allied agencies.

108.3.4 SUPERVISING CRIMINAL INVESTIGATOR (LIEUTENANT)
Supervising Criminal Investigator (Lieutenant) is distinguished from the next lower class of Criminal Investigator II in that the work involves the application of skilled investigative methods and practices to the more difficult or complex field investigations and involves management of an entire division of investigators.

108.3.5 LEAD SUPERVISING CRIMINAL INVESTIGATOR (CAPTAIN)
Under general direction, to assist in the direction and administration of the Bureau of Investigation within the District Attorney's Office.

108.4 SWORN STAFF GENERAL REQUIREMENTS

Under supervision, a Santa Clara County District Attorney Criminal Investigator conducts investigations in support of the District Attorney's Office, of alleged or suspected violations of criminal and civil laws. The typical tasks of a Criminal Investigator I, II and Supervising Criminal Investigator are found in the Santa Clara County job specifications for Class Codes V77, V76 and V75 respectively.

108.5 ESSENTIAL JOB FUNCTIONS

Due to the subjective nature of the work environment, District Attorney Criminal Investigators must be able to perform a variety of physical tasks that include such things as affecting a physical arrest, utilizing a variety of physical restraint methods to affect such an arrest and if necessary, utilize O.C. spray, a baton, handcuffs or a firearm. The day-to-day physical tasks required of an investigator may include a number of physical demands. A listing of these demands is found in the current Essential Job Function memorandum as approved by the Santa Clara County District Attorney's Investigators' Association, the Santa Clara County Equal Opportunity Department and the Chief Investigator.

108.6 CIVILIAN STAFF

108.6.1 DISTRICT ATTORNEY LEGAL PROCESS OFFICERS
District Attorney Legal Process Officers are not peace officers and, therefore, do not have the powers, duties or responsibilities of peace officers.

District Attorney Legal Process Officers are responsible for the service of subpoenas, legal summons, civil documents, and other legal process. District Attorney Legal Process Officers will serve office generated documents and documents received from other agencies for service by the District Attorney's Office.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

District Attorney Legal Process Officers may also perform other tasks such as photography, witness transportation, document retrieval, video documentation, and peripheral witness interviews.

108.6.2 CLERICAL

Bureau clerical staff are civilian employees and are members of the District Attorney's Office. Clerical staff consists of the Chief Investigator's secretary and one or more Justice System Clerks. The Chief Investigator's secretary is responsible for the supervision, coordination and training of the Bureau clerical staff.

In the event that a member of the Bureau of Investigation, sworn or civilian, is rendered incapable of performing the assigned duties and responsibilities of that position, it is the responsibility of the member to notify the member's supervisor as soon as practical.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Official Correspondence

109.1 PURPOSE AND SCOPE

All official correspondence, to include memorandums, sent outside of the office will be printed on office letterhead. Memorandums written for internal use need not be printed on office letterhead. All official Bureau correspondence shall be written in a professional and businesslike manner.

109.2 PROCEDURE

Letters concerning matters of the Bureau of Investigation will be created in a business block style. This style requires all lines and paragraphs to begin at the left margin. The letters will conclude with the name of the investigator authoring the correspondence followed by the investigator's title.

If applicable, a copy of the correspondence will be placed in the associated Bureau of Investigation case file. If there is no associated case file, a copy of the correspondence should be retained by the authoring investigator.

Investigators shall also become familiar with District Attorney Policy and Procedure Section 5.01(b)(ii)6), "Use of Office Identification, Insignia, and Letterhead" and Section 5.01(b)(ii)7), "Letters of Recommendation."

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

County of Santa Clara

Office of the District Attorney

County Government Center, West Wing

70 West Hedding Street

San Jose, California 95110

(408) 299-7400

Jeffrey F. Rosen

District Attorney

October X, XXXX (date line)

Mr. John Doe (Inside Address)

Executive Vice President

ABC Company

123 Some Street

San Jose, CA 95110

Dear John: (Salutation)

Double-space after the Salutation or the Subject line and begin typing the body of your letter.

Always double-space between each subsequent paragraph.

Double-space between the last paragraph and the Complimentary Close.

Sincerely, (Complimentary Close)

Investigator (Name)

Investigator (Title)

jd (Typist's Initials)

C (Other notations such as copy notation(s), enclosure(s), etc.)

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Chapter 2 - Organization and Administration

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Organizational Structure and Responsibility

200.1 PURPOSE AND SCOPE

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

200.2 DIVISIONS

The Chief Investigator is responsible for administering and managing the Santa Clara County District Attorney's Office, Bureau of Investigation. There are six divisions in the Bureau Department as follows:

- Administration Division
- Insurance Fraud Division
- Economic Crimes Division
- Person Crimes Division
- REACT Task Force
- Trial Preparation Division

200.2.1 ADMINISTRATION DIVISION

The Administration Division is commanded by a lieutenant whose primary responsibility is to provide general management direction and control for the Division. The Administration Division consists of Administrative Services, the Training Unit, Range, Special Operations Unit, the Public Integrity Unit, the Conviction Integrity Unit, the Backgrounds Unit, the Bad Check Program, and the Evidence Unit.

200.2.2 INSURANCE DIVISION

The Insurance Division is commanded by a lieutenant whose primary responsibility is to provide general management, direction and control for the Division. The Insurance Division consists of the Workers Compensation Fraud Unit, Auto/Health/Long-Term Disability Fraud Unit and the Organized Auto Task Force.

200.2.3 ECONOMIC CRIMES DIVISION

The Economic Crimes Division is commanded by a lieutenant whose primary responsibility is to provide general management, direction and control for the Division. The Economic Crimes Division consists of the Real Estate Fraud Unit, the Major Fraud Unit, the Consumer and Environmental Crimes Unit, and the Elder Financial Fraud Unit.

200.2.4 PERSONS CRIME DIVISION

The Person Crimes Division is commanded by a lieutenant whose primary responsibility is to provide general management, direction and control for the Division. The Person Crimes Division consists of the Homicide/PACE Unit, Cold Case Unit, Gang Investigations Unit, Witness

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Relocation Unit, Sexual Assault Unit, Domestic Violence Unit, LEIHT Task Force, Crime Strategies and the Child Abduction Unit.

200.2.5 REACT TASK FORCE
REACT is commanded by a lieutenant whose primary responsibility is to provide general management, direction and control for the task force.

200.2.6 TRIAL PREPARATION DIVISION
The Trial Preparation Division is commanded by a lieutenant whose primary responsibility is to provide general management, direction and control for the Division. The Trial Preparation Division consists of the Trial Preparation Unit, the Legal Process Unit and the Digital Multi-Media Evidence Unit.

200.3 COMMAND PROTOCOL

200.3.1 SUCCESSION OF COMMAND
The Chief Investigator exercises command over all personnel in the Bureau of Investigation. During planned absences, the Chief Investigator will designate the Captain as the Acting Chief Investigator.

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

(a) Lead Supervising Criminal Investigator (Captain)

(b) Person Crimes Supervising Criminal Investigator (Lieutenant)

(c) Economic Crimes Supervising Criminal Investigator (Lieutenant)

(d) Insurance Fraud Supervising Criminal Investigator (Lieutenant)

(e) Trial Preparation Supervising Criminal Investigator (Lieutenant)

(f) Administrative Supervising Criminal Investigator (Lieutenant)

(g) REACT Task Force Supervising Criminal Investigator (Lieutenant)

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

200.3.3 ORDERS
Investigators shall respond to and make a good faith and reasonable effort to comply with the lawful order of a supervising investigator and other proper authority.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

New Investigator Orientation

201.1 PURPOSE AND SCOPE

New investigators will receive a thorough orientation of the policies and procedures of the Bureau of Investigation and the policies and procedures of the District Attorney's Office in general.

201.2 PROCEDURE

It shall be the responsibility of the Training Manager to ensure that new investigators attend the Bureau In-House Academy commencing with the start of employment. The content and length of the In-House Academy will be approved by the Chief Investigator prior to the beginning of each academy. Attendance at the orientation may be delayed dependant upon staffing considerations and the needs of the Bureau. The academy may cover, but not be limited to:

- Bureau administrative needs
- Career Incentive Program (CIP)
- Crime lab tour
- Operational plans
- Building evacuation responsibilities
- Duty /Ops officer assignments
- Oath of office
- Evidence processing
- Computer search engines/Public databases
- Ciberlaw
- Kronos
- Office and Bureau policy and procedures
- Range qualification/Firearms safety
- CJIC / CLETS Use/Authorization
- Arrest / Control techniques
- Investigation Requests (IR's)
- Fleet policy
- Subpoena service
- Complaint process
- Search warrants
- Report writing

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

- Equipment issuance

Upon the completion of the In-House Academy, new investigators will be released to their assigned team's lieutenant. It shall be the responsibility of the lieutenant to ensure that new investigators receive training for the investigator's assignments as identified in the Bureau of Investigation Training Plan.

Within the first year of employment, the Training Manager will also ensure that new investigators receive the "mandated" training required of all investigators as identified in the Bureau of Investigation Training Plan.

Training provided during the In-House Academy and any subsequent training provided to new investigators will be documented and retained by the Training Manager.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Training Policy

202.1 PURPOSE AND SCOPE

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

202.2 PHILOSOPHY

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

202.3 OBJECTIVES

The objectives of the Training Program are to:

(a) Enhance the level of law enforcement service to the public

(b) Increase the technical expertise and overall effectiveness of our personnel

(c) Provide for continued professional development of Bureau personnel

202.4 TRAINING PLAN

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

- Legislative Changes
- State Mandated Training
- Critical Issues Training

202.5 TRAINING NEEDS ASSESSMENT

The Training Unit staff will conduct an annual training needs assessment of the Bureau and of individual investigators. The assessment shall include a review of all POST mandated perishable skills training and of individual investigator training as identified in the Training Plan. Such assessment shall be conducted prior to the beginning of the fiscal year.

Upon approval by the Training Lieutenant, the needs assessment will form the basis for the training plan for the subsequent fiscal year.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

202.6 TRAINING COMMITTEE

The Training Lieutenant shall establish a Training Committee, which will serve to assist with identifying training needs for the Bureau and to update the Training Plan when necessary. All appointments to the Training Committee will be approved by the Chief Investigator.

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 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 Lieutenant 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 Lieutenant. The recommendations and all records maintained by the Training Committee 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 Lieutenant will consider the recommendations of the committee and determine what training should be addressed, taking into consideration the mission of the Bureau and available resources

202.7 TRAINING PROCEDURES

(a) All employees assigned to attend training shall attend as scheduled unless previously excused by their immediate supervisor. Excused absences from mandatory training should be limited to the following:

1. Court appearances
2. Time sensitive investigative tasks that cannot be delayed without resulting in a negative impact to the investigation or prosecution of a case when approved by a Lieutenant or above.
3. Vacation
4. Sick leave
5. Physical limitations preventing the employee's participation
6. Emergency situations

(b) When an employee is unable to attend mandatory training, that employee shall:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

1. Notify his/her supervisor as soon as possible, but no later than one hour prior to the start of training.
2. Document his/her absence in a memorandum to his/her supervisor.
3. Make arrangements through his/her supervisor and the Training Lieutenant to attend the required training on an alternate date.

202.8 TRAINING REQUESTS

An "Authorization for Investigator Travel / Training" will be completed for approval when an investigator requests to attend any training other than in-house training assigned by the Training Manager. This will include requests to attend training on the investigator's day off and on his/her own time when the training is work related through CIP, Employee Development under a bargaining unit contract, or where the investigator represents themselves as a member of the District Attorney's Office or law enforcement.

202.9 RECORDS MANAGEMENT

All training records will be maintained by the Bureau Training Manager. Training records will be filed in the investigator's training file and/or entered into the Bureau's "Training Management System."

It is important that all investigators submit copies of certificates of completion, when issued, to the Training Unit within five business days after attendance at a course. Certificates may be scanned and emailed to the Admin/Training Team Leader and cc'd through the chain of command or physically copied and routed through the same process. The submission of completion certificates in one of the above manners, when issued, will be required when completing course reconciliation documentation.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Bureau of Investigation Work Hours

203.1 PURPOSE AND SCOPE

Standard office hours and work days are 0800 hours to 1700 hours, Monday - Friday. All investigators are to adhere to these work hours and work days unless an alternate work schedule has been requested and approved by the investigator's lieutenant and the Chief Investigator.

203.2 PROCEDURE

The normal work hour schedule for the Bureau of Investigation is from 0800 hours to 1700 hours. Investigators may participate in an alternate work hour schedule with written approval from their lieutenant and the Chief Investigator or his/her designee. Investigators also have the option to work one of two Work Plans. The 4/10 Work Plan requires written approval by the Chief Investigator and may be rescinded with proper notice as required by the current *DAIA Memorandum of Understanding* and *"4/10 Agreement" Side Letter dated 12/12/2002*.

203.2.1 5/8 WORK PLAN

- All hours must be worked between 0630 hours and 1800 hours subject to adjustment for investigative needs and approval.
- Participants will work Monday-Friday with Saturday and Sunday off unless modified with the approval of the Chief Investigator or his/her designee.

203.2.2 4/10 WORK PLAN

- All hours must be worked between 0630 hours and 1900 hours subject to adjustment for investigative needs and approval.
- Participant's regular days off will be evenly divided between Friday, Saturday and Sunday, or Saturday, Sunday and Monday, subject to adjustment and with the approval of the unit lieutenant. Temporary trading of the Friday and Monday days off is permissible with written supervisory approval. Temporary adjustments of days off during a holiday week are not permitted without approval by the Chief Investigator or his/her designee.
- A mid-week day off coupled with a Saturday and Sunday days off may be granted upon supervisor approval (e.g. Wednesday, Saturday, and Sunday). However, temporary adjustments to days off are not permitted during a holiday week without approval of the Chief Investigator or his/her designee.

203.2.3 EMERGENCY COVERAGE, MANDATORY TRAINING, COURT OR DEPARTMENT NEEDS

The Bureau may change an investigator's hours back to Monday through Friday, 0800 hours to 1700 hours for the purpose of emergency coverage, mandatory training, court or Bureau

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

needs. Except for emergency situations, the Bureau will provide a fourteen (14) days notice for changes to regularly scheduled shifts or days off.

203.2.4 FLEXING OF WORK SCHEDULE REQUIRING MAKEUP TIME

Flexing of work hours that would allow an employee to work less than eight (8) or ten (10) hours one day and more than eight (8) or ten (10) hours another workday (depending on the number of hours in the duty shift to which the employee is assigned) is not permissible. Employees wishing to temporarily work a reduced work day must schedule time off using approved vacation or compensatory time balances, or by applying for the voluntary reduced work hours program.

203.2.5 REPORTING FOR DUTY

An Investigator's work day shall commence at their assigned office location. Investigators may commence their work day in the field with prior supervisor approval. Should an investigator begin the work day in the field, the investigator's supervisor will notify the support staff person responsible for investigator attendance and duty status.

Each investigator shall return to their assigned office location at the conclusion of the work day. When a field assignment requires extended hours and it would be impractical to return to the office, the investigator shall notify their supervisor of the extended work day and the nature of the activity.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Availability while On Duty

204.1 PURPOSE AND SCOPE

Employees assigned to the Bureau of Investigation engage in law enforcement related operations outside of the office environment on a daily basis. Accordingly, the ability to maintain contact with employees in the field is paramount to ensuring safety of personnel, while providing for the ability to address office needs as they arise throughout the workday.

204.2 PROCEDURE

During normal working hours, it is the responsibility of Bureau employees to maintain contact with the Bureau of Investigation office to which they are assigned.

Investigators and technicians are to ensure that a means exists by which they can be contacted in the field during working hours (e.g. cell phone number, or radio).

When leaving their office or work areas for an extended period of time, investigators will utilize the sign in/sign out board provided in the investigator's work area to indicate that they are away from their office and their anticipated time of return. Additionally, the status board will reflect the means by which the employee can be contacted while working outside of the office environment.

Employees in select assignments will be issued cell phones for business purposes. It is the responsibility of each employee to ensure that his/her means of communication is in good working order. If the employee determines that a device that is owned and maintained by the Bureau of Investigation is not working properly, he/she will immediately notify the unit supervisor.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Overtime Compensation Requests

205.1 PURPOSE AND SCOPE

All overtime must be approved in advance by the Division Lieutenant, Captain, or Chief Investigator. The only exception would be in circumstances where it is impractical to make advance contact with the Division Lieutenant, Captain, or Chief Investigator. Those circumstances shall be explained to the Division Lieutenant, Captain, or Chief Investigator as soon as practical.

205.2 PROCEDURE

The overtime authorization form should be submitted during the investigator's next scheduled work day following the day the overtime was worked. The only exception would be if contact is made with the Division Lieutenant, Captain, or Chief Investigator explaining the reason for the delay in submitting the form.

One overtime authorization form is to be submitted for each overtime period worked. The hours must be listed in increments for each segment of the work performed, with a short description of the work performed, including names and addresses as necessary. If two or more separate overtime work periods occur on the same day, a separate overtime form should be completed for each period.

205.2.1 ALTERNATIVE TO WORKING COMPENSATED OVERTIME

If it is known in advance that an assignment needs to be accomplished before, or beyond normal work hours, the investigator may adjust her/his work hours. The investigator can begin the work day earlier or later, as necessary, and then complete a scheduled work day. Adjusting hours for this purpose may be done to complete work that cannot be completed during normal work hours or for the individual investigator's convenience because the work can be more easily completed before or beyond normal work hours. Prior verbal approval is required from the Division Lieutenant, Captain, or Chief Investigator to adjust work hours for this purpose. The investigator should submit a Request for Alternate Work Schedule form to the Division Lieutenant during their next scheduled work day following the verbal authorization. Overtime worked may be compensated by either pay or compensatory time off, in accordance with the existing Memorandum of Understanding. Compensatory time off on the day following a day when overtime is worked may be approved by a supervisor based upon unit staffing needs.

When completing the overtime form it is essential to enter the name of the attorney who is requesting the overtime, or who is assigned to the case when relevant. Employees working overtime will note on the form whether compensation is to be paid via compensatory time off or through payroll.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Vacation/Leave Requests

206.1 PURPOSE AND SCOPE

Efforts will be made to accommodate employee's leave requests.

206.2 PROCEDURE

Requests for all types of leave (vacation, personal, compensatory time, sick, leave without pay, military, bereavement, workers compensation, etc.) shall be made in writing on the "Request for Approval of Time Off" form and via the KRONOS time keeping system. Approval for leave requests, except for illness occurring during off-duty hours, will be obtained prior to the leave being taken.

The time off requested shall require the approval of management with due consideration of employee convenience and administrative requirements. Seniority within the Bureau of Investigation will prevail when simultaneous requests for leave are submitted, which if approved, could result in the inability of the Bureau of Investigation or any Division thereof to fulfill its assigned mission. Approved leave requests will prevail over subsequent requests for leave regardless of seniority.

Employees requesting sick leave shall, prior to the beginning of their scheduled start time; call the Bureau of Investigation sick line phone number [1 (408) 792-2424]. The employee shall indicate the number of days they will be absent and whether the leave will be for them or to care for a family member. A "Request for Approval of Time Off" form and the appropriate KRONOS request will be submitted by the employee, as soon as possible upon the employee's return to work after the sick leave is taken. However, the employee's lieutenant or designee will complete the required documentation if the employee's absence falls at the end of a pay period.

If the employee is aware of pending sick leave, such as a medical appointment, or the employee becomes ill while at work, the "Request for Approval of Time Off" form should be submitted, and their lieutenant or designee advised prior to the leave being taken.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Reassignment Policy

207.1 PURPOSE AND SCOPE

This policy establishes a procedure to follow when a Criminal Investigator I or II would like to be considered for an investigative assignment that has become available through some means of attrition, transfer, or through the creation of a newly established position.

207.2 PROCEDURE

207.2.1 ANNUAL ASSIGNMENT REQUEST

During or near the month of June and upon notice from the Chief Investigator, all Criminal Investigator I's and II' s ("Investigator") shall submit a listing of that investigator's top three choices for investigative assignment. The investigator may list their current assignment as any of the three choices or choose not to list it at all. The investigator should list choices in the order of their preference. The Chief Investigator will then maintain the investigator's Annual Assignment Request choices for use (as described in the following procedure) during assignment selections.

207.2.2 INVESTIGATIVE ASSIGNMENT VACANCIES

When an investigative assignment vacancy occurs, and the Bureau administration intends on filling the position, the Chief Investigator shall notice all investigators as to the investigative assignment opening(s). Investigators shall then be given an opportunity to request consideration for one or more of the vacant assignments. Upon receiving notice from an investigator requesting consideration, the Chief Investigator will forward requests for reassignment to the applicable lieutenant (a Supervising Criminal Investigator), who will then schedule the investigator for an interview. Upon completion of the interview, the Chief Investigator shall notice all investigators as to the assignment selection.

The filling of vacant assignments generally creates new vacancies, which will be administratively assigned by the Bureau administration. Prior to administrative selections being made, the most recent Annual Assignment Request will be reviewed and considered. The Chief Investigator or designee retains the right to leave an investigative assignment vacant should adequate staffing not be available to fill the vacancy.

There may be circumstances in which those interviewed for the listed vacancy are not selected. This may be due to a number of factors which could include the requesting investigator not meeting the expectations of the new assignment, the need to maintain investigative knowledge and skills in the current assignment, the need to balance the skill-sets of the newly hired investigators with those of the vacant positions, or the over-riding needs of the Bureau. Such circumstances may even necessitate the assignment of an investigator that did not request a new assignment or have indicated a preference for it. Accordingly, the Chief Investigator reserves the right to administratively reassign personnel when appropriate for the needs of the Bureau.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

207.2.3 TEAM LEADER SELECTIONS

Team Leader (Criminal Investigator II with lead pay) openings shall be noticed separately from regular investigative assignment vacancy announcements. As such, only Criminal Investigator II's are eligible for consideration for a Team Leader position. The Chief Investigator will notice all investigators of the procedures to follow when the Bureau administration intends on filling a vacant Team Leader position. A reasonable time period will be built into the notice to ensure that investigators are given adequate time to request consideration.

Criminal Investigator II's wanting consideration for a Team Leader position will be interviewed by the lieutenant having responsibility for the current Team Leader vacancy. Selections will be made after all interviews are completed. Should a currently filled Team Leader position become vacant due to the reassignment of a Team Leader (rather than an investigator) to a vacant Team Leader position, the Chief Investigator may fill the newly vacated Team Leader position administratively. That selection may be made from the pool of Criminal Investigator II's asking to be considered for the Team Leader vacancy, from the Annual Assignment Request or by administrative assignment based on Bureau needs.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Conflict of Interest Concerning Outside Employment

208.1 PURPOSE AND SCOPE

No Bureau employee shall engage in any type of secondary employment without first receiving the express written permission of the District Attorney.

Prior to submitting a written application for outside employment, Bureau employees will familiarize themselves with, and abide by, SCCDA Policy and Procedure Manual Section 5.01(b)(iv)(2), entitled "Incompatible Secondary Employment" as well as Santa Clara County Merit System rule A25-301(c), Board of Supervisors Policy 3.6, and California Government Code Section 1126 (a) – (d).

California Government Code Section 1126 (a) - (b) and Board Policy 3.6(F) specifically provide guidance as to incompatible secondary employment. Section 1126, subdivision (a) states, "Except as provided in Sections 1128 and 1129, a local agency officer or employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed. The officer or employee shall not perform any work, service, or counsel for compensation outside of his or her local agency employment where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of his or her employing body, unless otherwise approved in the manner prescribed by subdivision (b)." Board Policy 3.6(D) further states, "Each department shall provide employees with clearly defined conditions that would be incompatible with a particular department."

In accordance with these authorities, the following types of secondary employment are considered incompatible with respect to the District Attorney's Office:

- Practice of private investigative or consulting services regarding the same
- Any employment assisting in the defense of a criminal case
- Any employment where the employer engages in the defense of a criminal case
- Any employment with an employer charged with or under investigation for the commission of a criminal offense

208.2 PROCEDURE

Prior to any employee of the Bureau of Investigation engaging in any type of secondary employment, that employee shall submit a written request to the Chief Investigator by completing the Santa Clara County Outside Employment/Incompatibility Form. The completed form shall identify the nature of the intended employment and the name of the intended employer. After review, the Chief Investigator shall forward the written request to the District Attorney for final review and/or approval The District Attorney, or designee, shall provide the employee with written

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

notice of approval/denial within ten (10) working days of the employee's submission of his/her written request for authorization.

California Government Code Section 1126 (c) and Board Policy 3.6(C) require that employees be noticed that violations of this policy could subject the violating employee to formal disciplinary action (as specified in Merit System Rule A25-301). Additionally, any denial of an employee's application for secondary employment may be appealed by the affected employee and/or his/her representative pursuant to the grievance procedure set forth in the Memorandum of Understanding between the County and the DAIA.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Change of Address/Phone Number

209.1 PURPOSE AND SCOPE

As a law enforcement agency, it is important that employee contact information be current and accurate.

209.2 PROCEDURE

Bureau employees will provide the Chief Investigator with their home phone number and home address. Bureau employees will notify the Chief Investigator immediately of any changes of their home address or home phone number.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Employee Travel Authorization and Reimbursement

210.1 PURPOSE AND SCOPE

Prior approval is required for all travel outside the geographic boundaries of Santa Clara County except as noted below. Travel approval will by obtained in writing using the Bureau of Investigation, Investigator Travel/Training form.

Prior approval for travel IS NOT required if the destination is within the geographic boundaries of any of the counties listed below, the travel will be completed during normal working hours, and no expenses or per diem will be claimed by the traveling employee.

- Alameda County
- San Mateo County
- Santa Cruz County
- San Benito County
- San Francisco County
- Contra Costa County

All applicable provisions of the Santa Clara County Travel Policy will be followed.

210.2 PROCEDURE

Prior to the commencement of any travel requiring approval, an Investigator Travel/Training form will be completed by the traveling employee. The traveling employee should obtain any information necessary to accurately complete the form. Information regarding course fees, POST reimbursement, convenient lodging, and transportation options can often times be found on course flyers or at the training facility's web site. Information regarding per diem rates for the travel destination can be found at the Santa Clara County, Office of the Controller's intranet web site.

The completed Investigator Travel/Training form will be forwarded to the appropriate division Lieutenant for review and action. The Lieutenant will either approve or deny the request. If the Lieutenant denies the request, she/he will notify the requesting employee. If the Lieutenant approves the request, she/he will sign the request and forward it to the Captain, or Chief Investigator for review.

The Captain or Chief Investigator will either approve or deny the request. If the Captain or Chief Investigator denies the request, she/he will return the denied form to the approving Lieutenant. The Lieutenant will notify the employee of the decision. If the travel is approved by the Captain or Chief Investigator, she/he will sign the form and forward it to the Chief Investigator's Confidential Secretary.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

The Chief Investigator's Confidential Secretary will prepare the required Santa Clara County Travel Authorization form and return it to the traveling employee in order to obtain all required signatures. The traveling employee will sign the form and forward it to the approving Lieutenant. The Lieutenant will sign the form and forward it to the Captain or Chief Investigator for final approval. The Captain or Chief Investigator will sign the form and return it to the Confidential Secretary.

The Confidential Secretary will copy the approved Travel Authorization form and attachments, and distribute copies to the Bureau of Investigation, Training Manager (training requests only) and the traveling employee. She/he will submit the original travel forms and attachments to the District Attorney's Office, Travel Coordinator who will make the necessary travel arrangements. The traveling employee should collaborate with the Travel Coordinator and the BOI Training Manager in order to make convenient and efficient travel arrangements such as the payment of training fees, scheduling airline reservations, reserving lodging, and arranging ground transportation.

Receipts are required for reimbursement of travel expenses. Within ten days of their return, the traveling employee will complete a Travel Reimbursement Request form and attach all necessary receipts. The Travel Reimbursement Request and attachments will be submitted to the Travel Coordinator. The Travel Coordinator will prepare a Santa Clara County Trip Expense Voucher and give it to the traveling employee for review and signature. The traveling employee will verify the accuracy of the information contained on the form, and if accurate will sign the form and return it to the Travel Coordinator. The Travel Coordinator will submit the Travel Reimbursement Request to the Santa Clara County, Office of the Controller for payment. Santa Clara County will make any necessary reimbursements to the traveling employee via the payroll system.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Career Incentive Program (CIP)

211.1 PURPOSE AND SCOPE

Participation in the Career Incentive Program is voluntary. Investigators participating in the Career Incentive Program are eligible to receive additional pay when meeting the following requirements:

- Possess an Intermediate or Advanced POST Certificate
- Meet the training requirements / maintenance as set forth in the current District Attorney Investigators' Memorandum of Understanding with the County of Santa Clara - during an identified three-year period
- Complete training for the Career Incentive Program during an investigator's own time

The current District Attorney Investigators' Memorandum of Understanding should be referenced to determine the required number of CIP training hours to be completed during the identified three-year time period and the rate of additional pay to be received upon successful completion of the program.

211.2 PROCEDURE

All training hours to be counted toward meeting the initial eligibility or continued maintenance requirements of the CIP program must be pre-approved by the investigator's lieutenant.

In the case of college or other longer-term courses, the investigator must fill out a "Career Incentive Program Course Credit Approval Form" and submit it for approval to his/her lieutenant,priorto attending the course.

In the case of shorter-term training (i.e. POST videos, POST Training Portal, outside conferences, seminars, etc), the investigator shall inform his/her lieutenant of the training and obtain verbal approval priorto attendance. At the end of each month, the investigator will complete the "CIP Report of Training Received", obtain his/her lieutenants signature of approval, and submit the report to the Bureau Training Manager.

The cumulative hours of CIP training received will be calculated and maintained by the Bureau Training Manager.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

County Driver Permits and Use of Private Vehicles

212.1 PURPOSE AND SCOPE

All employees, extra-help employees, volunteers, interns and dependent contractors who drive either County owned or private vehicles on County business, must have valid County Driver Authorization, a satisfactory driving record, and a valid California Driver License of the proper classification for the vehicle driven. Employees, extra-help employees, volunteers, interns and dependent contractors must meet the minimum requirements delineated in this procedure and the Board of Supervisors Comprehensive Vehicle Policy.

The Bureau of Investigation will administer the Office of the District Attorney's County Driver Training and Authorization Program. The Bureau of Investigation will maintain all records of those District Attorney's Office employees, extra-help employees, volunteers, interns and dependent contractors authorized to drive a County owned vehicle and/or a private vehicle on County business.

212.2 PROCEDURE

A Bureau of Investigation Lieutenant will be designated as the County Driver Training Coordinator for the Office of the District Attorney. The Driver Training Coordinator will ensure departmental compliance with the County's Driver Training Program. The Driver Training Coordinator is designated as the approving authority for County Driver Authorization requests submitted by employees, extra-help employees, volunteers, interns and dependent contractors of the Office of the District Attorney.

District Attorney's Office Human Resources personnel will coordinate the scheduling and viewing of the driver training eLearning course for all newly hired District Attorney's Office employees (except Criminal Investigators), extra-help employees, volunteers, interns and dependent contractors authorized to drive a County vehicle and/or a private vehicle on County business. The Driver Training Coordinator will coordinate the scheduling and viewing of the driver training eLearning course for all Criminal Investigators and will maintain all associated County Driver Authorization records for all District Attorney's Office personnel.

212.3 EMPLOYEES (PART-TIME, FULL-TIME AND EXTRA-HELP)

Upon a new employee being hired, the Driver Training Coordinator or Human Resources personnel will direct them to take the The Driver Training Coordinator or Human Resources personnel will provide the employee with County Form 6409 – Request for Driver Permit, Department of Motor Vehicles (DMV) Form INF 1101 – Authorization for Release of Driver Record Information, and County Form 6448 – Driver Responsibility Statement. Upon completion of the Driver Training eLearning course, the employee will print a copy of their certificate of completion, complete and sign all three forms, and return them along with a photocopy of their California Driver License to the Driver Training Coordinator.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Employees who drive a personal vehicle, while on County business, will provide a photocopy of their current personal automobile policy proof of insurance card to the Driver Training Coordinator. In order to keep this authorization, the employee must continue to provide the Driver Training Coordinator with current proof of automobile insurance.

All employees DMV Driver History information will be reviewed by the Driver Training Coordinator at least once every twelve months to insure compliance with Office and County policy. The DMV Electronic Employer Pull Notice program automatically sends a new Driver Record Information report for employees entered into the program on the annual anniversary of their entry into the system. The DMV Electronic Employer Pull Notice program also automatically sends a Driver Record Information report anytime a significant change occurs on the employee's driving record (e.g. suspensions, expirations, accidents, etc.).After review and approval, the Driver Training Coordinator will save the Driver Record Information report(s), based on the month they were received and reviewed, into the "DMV Reports and Pull List" folder in the "DMV Pull Program" folder in the "Fleet Manager" folder on the S:/Drive

County Driver Authorization is valid for three years from the date of successful completion of the eLearning course. All employees will receive a reminder email generated by the eLearning system prior to the expiration of their County Driver Authorization. Santa Clara County ESA Risk Management will transmit periodic reports to the Driver Training Coordinator indicating employees whose County Driver Authorization has expired. Any District Attorney's Office employee whose County Driver Authorization has expired is required to complete the Driver Training eLearning course as soon as possible after being given notice of the expiration of their authorization and will refrain from driving on County business until the successful renewal of their County Driver Authorization.

212.4 VOLUNTEERS, INTERNS, AND DEPENDENT CONTRACTORS

Human Resource personnel will schedule new volunteers, interns and dependent contractors to view the approved County driver safety video course and complete the associated workbook. The County driver training eLearning course may be used in lieu of the safety video and associated workbook. Human Resource personnel will provide them with County Form 6409 – Request for Driver Permit, DMV Form INF 1101 – Authorization for Release of Driver Record Information,and County Form 6448 – Driver Responsibility Statement. Upon completion of the video and workbook, or the online eLearning course,the volunteer, intern or dependent contractor will complete all three forms and return them along with a photocopy of their California Driver License and the proof of completion from the driver training workbook, or eLearning course, to the Driver Training Coordinator.

Volunteers, interns or dependent contractors who drive a personal vehicle, while on County business, will provide a photocopy of their current personal automobile policy proof of insurance card to the Driver Training Coordinator. In order to keep this authorization, the volunteer, intern or dependent contractor must continueto provide the Driver Training Coordinatorwith current proof of automobile insurance.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

The complete driver authorization packet (completed forms and photocopies) will be submitted to the Driver Training Coordinator for review. The Driver Training Coordinator will obtain a DMV Driver History for the volunteer, intern or dependent contractor, by entering the employee into the DMV Electronic Employer Pull Notice program. If the Driver Training Coordinator determines that the volunteer, intern or dependent contractor meets all requirements for County Driver Authorization, she/he will sign and scan the three required forms and save the scanned forms into the "Driver Permit Files" folder in the "Fleet Manager" folder on the S:/Drive. Only the Driving Training Coordinator and the Chief Investigator's Confidential Secretary will have access to the "Fleet Manager" folder on the S:/Drive. The original three forms, eLearning course completion certificate, and the photocopy of the employees Driver's License will be shredded. The video workbook, if completed, will be sent to ESA Risk Management for filing.

All volunteer's, intern's and dependent contractor's DMV Driver History information will be reviewed by the Driver Training Coordinator at least once every twelve months to insure compliance with Office and County policy. The DMV Electronic Employer Pull Notice program automatically sends a new Driver Record Information report for employees entered into the program on the annual anniversary of their entry into the system. The DMV Electronic Employer Pull Notice program also automatically sends a Driver Record Information report anytime a significant change occurs on the employee's driving record (e.g. suspensions, expirations, accidents, etc.). After review and approval, the Driver Training Coordinator will save the Driver Record Information report(s), based on the month they were received and reviewed, into the "DMV Reports and Pull List" folder in the "DMV Pull Program" folder in the "Fleet Manager" folder on the S:/Drive.

County Driver Authorization is valid for three years from the date of successful completion of the approved County driver safety video course, or eLearning course. All volunteers, interns and dependent contractors will be required to renew their County Driver Authorization prior to the expiration of their current driver authorization. Santa Clara County ESA Risk Management will transmit periodic reports to the Driver Training Coordinator indicating volunteers, interns and dependent contractors whose County Driver Authorization is expiring. The Driver Training Coordinator will attempt to notify volunteers, interns and dependent contractors of the impending expiration of their County Driver Authorization.

Any District Attorney's Office volunteer, intern or dependent contractor whose County Driver Authorization has expired is required to complete the County Driver Safety video course, or eLearning course, as soon as possible after being given notice of the expiration of their authorization and will refrain from driving on County business until the successful renewal of their County Driver Authorization.

212.5 MINIMUM DRIVER RECORD GUIDELINES

Before approving an employee's, extra-help employee's, volunteer's, intern's or dependent contractor's County Driver Authorization, the Driver Training Coordinator will verify that the employee, extra-help employee, volunteer, intern or dependent contractor has:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

- A valid California Driver License
- Completed and signed DMV Form INF 1101
- Completed and signed Santa Clara County Form 6409
- Completed and signed Santa Clara County Form 6448, if they are requesting or are required to drive a privately-owned vehicle on County business
- Has completed the required County driver safety training course
- Reached the age of 18
- No current probation, suspensions, or revocation of their driver license
- No unresolved failures to appear (FTA's)
- No unresolved failures to pay traffic fines (FTP's)
- In the previous 12 months, a cumulative DMV point count less than (3) and less than (3) moving violation convictions within that period
- In the previous 24 months, a cumulative DMV point count less than (4) and less than (4) moving violation convictions within that period
- In the previous 36 months, a cumulative DMV point count less than (5) and less than (5) moving violation convictions within that period.

Should an employee, extra-help employee, volunteer, intern or dependent contractor not meet the minimum driver record guidelines, County Driver Authorization only be granted upon a determination made by the Chief Investigator in consultation with the ESA Risk Management Insurance Division.

212.6 ANNUAL DRIVER RECORD REVIEW

The Office of the District Attorney will subscribe to the Department of Motor Vehicles (DMV) Electronic Employer Pull Notice Program (EPN). The Driver Training Coordinator will serve as the authorized departmental representative. The Driver Training Coordinator will complete a DMV Electronic Data Transfer application (FGS 2.0 Application) and register as the "Business Contact" for the Office of the District Attorney's EPN Requester Code. The Driver Training Coordinator will then be notified by email whenever an EPN Driver Record Information report (DL414) is available for download via Secure File Transfer (SFT).

As employees, extra-help employees, volunteers, interns and dependent contractors receive County Driver Authorization; the Driver Training Coordinator will transmit a message to DMV via Secure File Transfer (SFT) adding them to the EPN system. When employees, extra-help employees, volunteers, interns and dependent contractors leave the Office of the District Attorney or are no longer required to maintain County Driver Authorization, the Driver Training Coordinator will transmit a message to DMV via SFT removing them from the EPN system.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

The Driver Training Coordinator will review the EPN Driver Record Information reports to confirm the employee, extra-help employee, volunteer, intern or dependent contractor has maintained a satisfactory driving record meeting the same standards used for initial permit issuance. After review and approval, the Driver Training Coordinator will save the Driver Record Information report(s), based on the month they were received and reviewed, into the "DMV Reports and Pull List" folder in the "DMV Pull Program" folder in the "Fleet Manager" folder on the S:/Drive

The Driver Training Coordinator will immediately notify the Chief Investigator of an employee, extra-help employee, volunteer, intern or dependent contractor whose driving record is unsatisfactory. Upon direction of the Chief Investigator, the Driver Training Coordinator may inform the effected person in writing or by email that they are no longer authorized to drive on County business. The effected person's supervisor will also be notified. Additionally, an employee, extra-help employee, volunteer, intern or dependent contractor who demonstrates and inability to maintain a safe driving record and safe driving practices may be referred to the Santa Clara County Vehicle Accident Review Board (VARB) for review.

212.7 DRIVER AUTHORIZATION LIST

The Driver Training Coordinator will maintain a record of all employees, extra-help employees, volunteers, interns and dependent contractors with County Driver Authorization. The records will be saved to the "Driver Permit Files" folder in the "Fleet Manager" folder on the S:/Drive.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Use of Public Safety Radio

213.1 POLICY

Operations are more efficient and officer safety is enhanced when dispatchers, supervisors, and fellow investigators know the status of investigators, their locations and the nature of cases. To ensure such efficiencies and officer safety, all investigators and Legal Process Officers (LPO's) shall "log on" to County Communications when engaging in field operations by providing County Communications with all required information at the time of log on. Investigators and LPO's shall "log off" at the end of their assigned field work and in all cases, no later than the end of their current shift.

Anytime during a shift, investigators shall update County Communications when taking any enforcement action as to the location, type of event, investigative units assigned, need for assistance and/or need for restricted radio traffic.

213.2 PROCEDURE

Public Safety Radios, car mounted or handpacks, are provided to BOI personnel for the purpose of giving an employee the present ability to summon emergency assistance, to access logistical and records support, and to coordinate operations with similarly assigned personnel. Failure to "log on" to the communications system only serves to delay an employee's access to needed resources and to frustrate this purpose. The practice of logging on to the communications system is particularly important during any emergency when the identification of the transmitting unit is essential for dispatchers to understand who needs assistance, what assistance to render, and to where to send assistance.

Prior to engaging in any field operation, all Bureau employees will ensure that they are logged on to County Communications by providing all required information at the time of log on (call-sign, county cell phone number, handpack number etc.). County Communications shall be updated as to status changes and location changes, when appropriate, and at all times when investigators are engaged in enforcement action such as arrests, search warrants, hostile witness contacts or other circumstances that could likely lead to the need for assistance.

All personnel engaged in a transportation detail of individuals, such as a witness or an arrested person, shall provide County Communications with a status change and location when starting the transportation and upon its completion. When an employee is transporting a member of the opposite sex, the employee shall additionally provide County Communications with a starting and ending vehicle mileage upon beginning and ending the transportation.

213.2.1 TEN CODE

All investigators and LPO's utilizing a public safety radio shall utilize the approved Santa Clara County Communications Ten Code. In addition to providing a common and understood radio language for law enforcement, such use will reduce unnecessary communication, will allow for a

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

more efficient use of the chosen radio channel, and will enhance officer safety during both routine and emergency circumstances.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Use of Controlled Information

214.1 PURPOSE AND SCOPE

Investigators and other designated Bureau staff are authorized to access and obtain information from SLETS and CJIC computer terminals and from other regulated sources. Investigators or other authorized Bureau staff will obtain information from the computer systems only in connection with and for the purpose of an investigation being conducted by the District Attorney's Office. Investigators or other Bureau staff are not authorized to obtain information from the SLETS terminal, the CJIC terminal, or any other such regulated computer system which contains criminal justice information or regulated data for any purpose other than an official investigation, or to assist legitimate law enforcement personnel who have an official and lawful use for such information.

Investigators or other Bureau staff who obtain or receive such computer generated data will release or provide that information to only those persons or agencies authorized by statutory law or decisional law to receive such information.

Unauthorized inquiries into a computer data system is a violation of Penal Code Section 502. Unauthorized receipt of criminal history information is a violation of Penal Code Section 11143. Dissemination of criminal history information to unauthorized persons is a violation of Penal Code Section 11142.

The obtaining, retention and release of criminal history information will be in accordance with District Attorney directive "Regulations Governing the Release of Criminal Offender Record Information" (Reference index SLETS/CJIC), as outlined in the SCCDA Policy and Procedure Manual.

Investigators, by virtue of their assignment, have access to public records, commercial databases, restricted intelligence information or other forms of controlled information or data. In many circumstances information may only be accessed in the course of an approved investigation and released only in accordance to provisions of policy and/or law that govern the source. Release of information shall conform to the agreement and/or contract with the provider and shall be in accordance with office policy. Documentation of the access and receiving of this classification of information shall be maintained in the investigation file. Investigators accessing such systems shall enter searchable case or file numbers on every database screen where requested.

214.2 PROCEDURE

The Bureau maintains SLETS and CJIC manuals which provide instructions and direction concerning the methods of accessing and using those computer terminals and investigators shall attend regular training as directed. Investigators may contact clerical staff to obtain and review relevant manuals on an as needed basis.

When hard copy printouts are obtained from these computer data systems, those documents will be securely maintained within the investigation file. Computer generated printouts, other than criminal history information, which are deemed to be unwanted or unneeded may be

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

destroyed. Printouts will not be discarded into common waste areas in their complete or readable form. A paper shredder is located near the terminals for such destruction of documents.

When accessing automated criminal history systems or subscription databases, investigators or other authorized Bureau staff will identify the investigation case, by case number, and the identity of the person making the inquiry into the system. No inquiries for criminal history information will be made without such case identification and requester identification.

Criminal history information obtained in printed form will be securely maintained within the case file. Dissemination of criminal history information to other authorized persons or agencies will be noted in the investigation file. Such notation will minimally include to whom the criminal information was released, when, and for what reason. Criminal history printouts will be retained, to be destroyed only in accordance with statutory law and office procedure.

Criminal histories obtained from any other sources during the course of an investigation will also be retained securely within that investigation file, again, to be destroyed only in accordance with statutory law and policy.

Automated criminal history information will not be obtained for personnel background investigations.

Criminal history information for personnel background investigations will only be obtained by submitting an applicant fingerprint card to the Department of Justice.

Criminal history information will not be provided to other peace officers or agencies if that information is not associated with an investigation being conducted by this office. Release of information to other officers or agencies must also meet the "right to know" and "need to know" criteria. This criteria requires that the other officer or agency be involved in the investigation of this office case, or the investigation of subjects or incidences related to this case. If an officer or agency is investigating a case where criminal history information is needed but that investigation is not associated with any District Attorney investigation or prosecution, the Chief Investigator or Supervising Investigator must approve such release of information and an office investigation number will be assigned and an investigation file created.

Under no circumstances will criminal history information be provided to a private citizen or a private investigator.

214.3 CONTROLLED INFORMATION DATABASE TRACKING

The Bureau maintains generic case numbers through the CiberLaw database for investigators to use during specific "Officer of the Day" (OD) responses and Inter-Agency assistance requests. These case numbers are created by the Confidential Secretary and maintained on a yearly basis. Any lawful request to search any database where no case number exists shall utilize this generic case number.

Should an investigator need to search a database where no case number has been previously generated, that investigator will ensure the following:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

a) The individual or item to be searched does not already have an associated case number in CiberLaw (such as an "RF" number).

b) The search was conducted on a right to know, need to know basis.

c) The documentation/tracking field of the database has the generic case number listed.

d) Upon completion of the search, Investigators shall create a "task" in the CiberLaw database under the generic case number utilized.

e) Investigators shall document the name(s), agency, corresponding agency case number, and reason for the search.

1) Should the search occur as part of an Officer of the Day request, a detailed description of the reason for the search shall be listed in the notes field.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Retiree Concealed Firearms

215.1 PURPOSE AND SCOPE

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

215.2 POLICY

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

215.3 LEOSA

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

(a) Separated from service in good standing from this Office as an investigator(Penal Code § 830.1).

(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 Office.

(c) Has not been disqualified for reasons related to mental health.

(d) Has not entered into an agreement with this Office where the investigator acknowledges that he/she is not qualified to receive a firearm qualification certificate for reasons related to mental health.

(e) Is not prohibited by federal law from receiving or possessing a firearm.

(f) Was authorized to, and did, carry a concealed firearm during the course and scope of his/her employment.

(g) Has current Live Scan finger prints on file with the California Department of Justice with the "literal" selection of "Retired Peace Officer CCW."

(h) Resides in the State of California.

215.3.1 LEOSA IDENTIFICATION CARD FORMAT

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

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

215.3.2 AUTHORIZATION

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

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

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.

215.4 CALIFORNIA IDENTIFICATION CARD ISSUANCE

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

(a) For the purpose of this policy, honorably retired includes all peace officers who have qualified for, and accepted, a service or disability retirement. It shall not include any investigator who retires in lieu of termination.

(b) No CCW Approved endorsement shall be issued to any investigator retiring because of a psychological disability (Penal Code § 26305).

(c) No CCW Approved endorsement shall be issued to any retiring or retired investigator that does not have current Live Scan fingerprints on file with the California Department of Justice with the "literal" selection of "Retired Peace Officer CCW."

(d) Out-of-State retirees must be Live Scan fingerprinted in California when petitioning for the renewal of an identification card with a CCW endorsement and must qualify with an approved firearm on an approved course of fire.

215.4.1 CALIFORNIA IDENTIFICATION CARD FORMAT

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(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 Office.

(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."

215.5 FORMER INVESTIGATOR RESPONSIBILITIES

A former investigator with a card issued under this policy shall immediately notify the Chief Investigator of his/her arrest or conviction in any jurisdiction, or that he/she is the subject of a court order, in accordance with the "Reporting Responsibilities" policy. Additionally, a former investigator shall immediately notify the Chief Investigator of a lost/stolen Identification Card. "Immediately," for purposes of this policy, means by the next business day.

215.5.1 RESPONSIBILITIES UNDER LEOSA

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

(a) Sign a waiver of liability of the 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 Office.

(b) Remain subject to all applicable Office policies and federal, state and local laws.

(c) Demonstrate good judgment and character commensurate with carrying a loaded and concealed firearm.

(d) Reside in the State of California

215.5.2 MAINTAINING A CALIFORNIA IDENTIFICATION CARD CCW ENDORSEMENT

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

(a) Qualify annually with the authorized firearm at a course approved by this Office the retired investigator's expense.

(b) Remain subject to all applicable Office policies and federal, state and local laws.

(c) Not engage in conduct that compromises public safety.

(d) Have current Live Scan fingerprints on file with the California Department of Justice with the "literal" selection of "Retired Peace Officer CCW."

215.6 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 Office. In the event that an identification card is denied, suspended or revoked, the former investigator may request a review by the Chief Investigator. The decision of the Chief Investigator is final.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

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

(a) In the event that a CCW endorsement is initially denied, the retired investigator shall have 15 days from the date of denial to request a formal hearing. The failure to submit a timely written request for a hearing shall be deemed a waiver of such right. The hearing, absent written agreement between the parties, shall be held no later than 120 days after the request is received.

(b) Prior to revocation of any CCW endorsement, the Office 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 Office, one selected by the retiree or his/her employee organization and one selected jointly (Penal Code § 26320).

(a) The decision of such hearing board shall be binding on the Office and the retiree.

(b) 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 Office will then reissue a new identification card which shall be stamped "No CCW Privilege."

(d) Members who have reason to suspect the conduct of a retiree has compromised public safety shall notify the Chief Investigator as soon as practicable. The Chief Investigator should promptly take appropriate steps to look into the matter and, if warranted, contact the retiree in person and advise him/her of the temporary suspension and hearing information listed below.

(a) Notification of the temporary suspension should also be promptly mailed to the retiree via first class mail, postage prepaid, return receipt requested (Penal Code § 26312).

(b) The Chief Investigator should document the investigation, the actions taken and, if applicable, any notification made to the retiree.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(c) The personal and written notification should be as follows:

(a) The retiree's CCW endorsement is immediately and temporarily suspended.

(b) The retiree has 15 days to request a hearing to determine whether the temporary suspension should become permanent revocation.

(c) The retiree will forfeit his/her right to a hearing and the CCW endorsement will be permanently revoked if the retiree fails to respond to the notice of hearing within the 15-day period.

(d) In the event that personal contact with the retiree cannot be reasonably achieved in a timely manner, the Chief Investigator should attempt to make the above notice of temporary suspension through another law enforcement officer. For example, if a retiree was arrested or detained by a distant agency, the Chief Investigator may request that a law enforcement officer from that agency act as the agent of the Office to deliver the written notification.

215.8 FIREARM QUALIFICATIONS

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Occupational Disease and Work-Related Injury Reporting

216.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance regarding the timely reporting of occupational diseases, psychiatric injuries and work-related injuries.

216.1.1 DEFINITIONS

Definitions related to this policy include:

Occupational disease or work-related injury - An injury, disease or psychiatric injury arising out of employment (Labor Code § 3208; Labor Code § 3208.3; Labor Code § 3212 et seq.).

216.2 POLICY

The Bureau of Investigation will address occupational diseases and work-related injuries appropriately, and will comply with applicable state workers' compensation requirements (Labor Code § 3200 et seq.).

216.3 RESPONSIBILITIES

216.3.1 MEMBER RESPONSIBILITIES

Any member sustaining any occupational disease or work-related injury shall report such event as soon as practical, but within 24 hours, to a supervisor, and shall seek medical care when appropriate.

Bureau employees are responsible for reporting potentially hazardous conditions to an immediate supervisor as soon as practical.

216.3.2 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 the Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility are completed See attachment: PPM 216 DWC-1 2016.pdf . There are two sections on the form to be completed: "Employee" and "Employer" section. The injured worker completes the Employee section while the supervisor completes the Employer section. The supervisor is required to complete the DWC1 and provide copies to the District Attorney's Office Personnel Unit and to the injured worker along with "An Employee's guide to Worker's Compensation" pamphlet within one business day.

In the event the employee is injured to such extent that he/she is incapable of completing the required documentation, the employee's lieutenant or Captain shall work with the District Attorney's Office Personnel Unit staff to ensure all necessary documents are completed and

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

submitted by the time specified by law. Injuries requiring emergency medical aid will be addressed accordingly and thus the following procedure may not be immediately applicable when emergency treatment is sought.

In cases of serious injury, dial 9-1-1 to obtain emergency services. In typical emergencies, the emergency room at the closest hospital should be utilized.

216.4 TREATMENT OF INJURY

Should an employee need to be medically treated for a non-emergency on-duty injury, a supervisor will provide the injured employee with a signed "Authorization to Treat" form which will allow for medical treatment at those medical facilities listed by the County of Santa Clara. The employee must bring the approved form to the location of their choice.

If the employee would rather be treated at another facility or by a physician other than the two listed above, the employee must have a "Predesignated Physician" form on file with the District Attorney's Office Personnel Unit. Employees can obtain forms or verify that their pre-designation form is on file by contacting the Personnel Unit at 408-792-2686. The Predesignated Physician form must have been completed and filed with the District Attorney's Office Personnel Unit prior to sustaining injury. If the above non-emergency procedure is not followed, employees seeking treatment from non pre-approved medical providers may become financially liable for costs related to that treatment decision.

216.5 ADDITIONAL REPORTING AND NOTIFICATION REQUIREMENTS

California law requires employers to report within 5 days of knowledge every occupational injury or illness which results in lost time beyond the date of the incident or requires medical treatment beyond first aid. As such, the employee's lieutenant or Captain shall ensure that the Employer's Report of Occupational Injury or Illness (Form 5020) is completed when the severity of the injury or illness or time lost meets the reporting requirement See attachment: PPM 216 SCC Injury Report Form 5020.pdf . The lieutenant or Captain shall also ensure the completed report is forwarded to the District Attorney's Office Personnel Unit prior to the 5-day reporting requirement deadline.

If the injury is severe, fatal or there is a potential for death, the lieutenant or Captain is required to immediately notify OSEC of the injury at 408-441-4282. Additionally, the lieutenant or Captain shall immediately notify the Sheriff's Deputy assigned to County Counsel and will complete the on-line "Incident Notification Form" and email said form to incident@cco.sccgov.org. Such notification should be coordinated with the District Attorney's Office Personnel Unit and the District Attorney or designee.

216.6 RETURN TO WORK PROCESS

Through the return to work process, should the injured employee provide information or documentation that they are unable to resume a full duty assignment; the lieutenant will provide the employee with a listing of the essential job functions and begin the interactive reasonable accommodation process. A doctor's note may be required, prior to an employee's return to work,

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

to confirm readiness for duty or to identify an employee's limitations from conducting certain types of job functions.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Blood Borne Pathogens Exposure Control Plan

217.1 PURPOSE AND SCOPE

Whenever Bureau employees encounter blood or potentially infectious materials, they may be at risk of occupational exposure to bloodborne pathogens, including viruses that cause diseases including Hepatitis B, C, and HIV. By following these procedures, the Bureau of Investigation will attempt to eliminate or limit exposures thereby protecting its employees.

An exposure can be defined as a percutaneous injury (e.g., needle stick or cut with a sharp object) or contact of mucous membrane or non-intact skin (e.g., exposed skin that is chapped, abraded, or with dermatitis) with human blood, saliva, tissue, other body fluids, or other potentially infectious materials that occur during the performance of an employee's duties.

217.2 PROCEDURE

In the event of an exposure, employees and supervisors will follow the procedures set forth in the Bureau's policy. The Bureau Safety Officer will review this policy and procedure on an annual basis and update it as necessary.

217.3 SCOPE

The Classification and Potential Risk Factor for Bureau Employees at risk of possible exposure are:

- **Legal Process Officers (F07)**: Serving subpoenas and transportation of witnesses.
- **Investigator Assistant – EH (V88)**: Interview of victims, witnesses, and suspects, assisting on search warrants, handling physical evidence, serving subpoenas, and transportation of victims and witnesses.
- **Criminal Investigator I (V77), Criminal Investigator II (V76), Criminal Investigator II – EH (EE4), Supervising Criminal Investigator (V75), Lead Supervising Criminal Investigator (V75), and Chief Investigator (V71)**: Contact with citizens, victims, witnesses, and suspects, responding to medical emergencies, performing searches and seizures, making arrests, handling physical evidence, recovering children, serving subpoenas, inspecting crime scenes, responding to OIS and Child Death calls, searching for and/or collecting environmental evidence samples, and the transportation of victims, witnesses, and suspects.

217.4 IMMUNIZATIONS AND RECORD KEEPING

Within 10 days of an employee's employment or assignment to a job classification identified as being possibly at risk of an occupational exposure to a bloodborne pathogen, the Bureau Safety Officer will provide him/her with information on the Hepatitis B vaccination program (Attachment A) and the Hepatitis B Vaccination Form (See attachment: PPM 217 Hepatitis Vaccination Form.pdf). The employee will complete the Hepatitis B Vaccination Form and may either elect to receive the Hepatitis B Vaccine series or decline it. The Bureau Safety Officer will retain the original form.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Upon completing the vaccination process, the employee shall provide written documentation to the Bureau Safety Officer. The Bureau Safety Officer will maintain this documentation and will also maintain a log reflecting the date the "Intent" or "Declination" form was signed and the date of immunization completion for all employees in at-risk classifications within the Bureau.

217.5 PREVENTING EXPOSURE/PROTECTIVE EQUIPMENT

Whenever practical, Bureau employees shall wear protective equipment during arrest, custodial, and/or contact situations where they have direct contact with persons contaminated with blood or body fluids.

Employees shall wear protective equipment whenever handling evidence that has been contaminated, or there is a reasonable likelihood that it has been contaminated with blood or body fluids. All such evidence will be properly packaged and its containers marked with a biohazard label. No food or drink shall be consumed in the areas designated as evidence or equipment storage areas. These areas will be marked with biohazard signs.

After performing these tasks, employees shall thoroughly wash their hands with soap and warm to hot water. If soap and water is not immediately available, employees shall decontaminate using anti-bacterial gel or towelettes (followed as soon as possible by a thorough hand washing with soap and water).

217.5.1 PROTECTIVE EQUIPMENT

Protective equipment is available to employees. Supplies are maintained in the facility equipment rooms and include gloves, protective eyewear, and CPR masks. Employees are encouraged to keep protective equipment immediately available, including in their assigned vehicles.

217.5.2 WASTE DISPOSAL

Receptacles containing red "biohazard" marked plastic trash bags will be located in each evidence and equipment storage area. All used protective equipment suspected of having come in contact with a contaminated person or substance shall be placed in one of these containers. When the container(s) is 3/4 full, the bag(s) will be sealed and transported to the Crime Laboratory for proper disposal.

217.6 EXPOSURES

An exposure can be defined as a percutaneous injury (e.g., needle stick or cut with a sharp object) or contact of mucous membrane or non-intact skin (e.g., exposed skin that is chapped, abraded, or with dermatitis) with blood, saliva, tissue, other body fluids, or other potentially infectious materials that occur during the performance of an employee's duties.

The following forms will be used and completed by the exposed employee(s) and/or supervisor(s):

1. DWC1: Workers' Compensation Claim Form & Notice of Potential Eligibility (Attachment D). To be completed by the employee. **This form is optional for the employee– the employee may choose not to complete it.**

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

2. Employer's Report of Occupational Injury or Illness (Attachment E). To be completed by the supervisor, regardless of whether the employee fills out the DWC1.
3. Treatment Authorization Forms Alliance Occupational Medicine (Attachment C). To be completed by the supervisor should the employee seek a medical evaluation at either of these providers.
4. Report of Request and Decision for HIV Testing (Attachment F). To be completed by the supervisor.
5. Route of Exposure Report (Attachment G). To be completed by the supervisor.

In the event of an exposure, the following steps shall be taken:

1. In the case of an emergency, the employee should immediately be taken to the nearest hospital or urgent care facility.
2. Any exposure which occurs while an employee is on-duty shall be immediately reported to the employee's supervisor.
3. The supervisor shall ensure that the exposed employee is given immediate first aid at the scene if necessary.
4. The supervisor shall ensure that the exposed employee is expeditiously transported for medical attention. Medical attention should be provided within 1 hour of exposure.
   (a) Employees may use their pre-designated physician, or Alliance Occupational Medicine as their health care provider.
   (b) If the employee is to be evaluated by Alliance Occupational Medicine, the supervisor will fill out the Treatment Authorization forms (Attachment C) and provide the signed original to the employee.
5. The exposed employee shall report to a medical facility for treatment.
6. The supervisor shall provide the employee with the DWC1 form (Attachment D) within 24 hours of the exposure.
7. The supervisor shall complete the Employer's Report of Occupational Injury or Illness (Attachment E) within 24 hours of the exposure. A copy will be given to the employee, and the original will be given to Human Resources to forward onto Employee Services Agency (ESA), Workers' Compensation Department. A copy will be maintained by the Bureau Safety Officer.
8. The supervisor shall provide the employee with the Report of Request and Decision for HIV Testing form (Attachment F). This form is to be used if the exposed employee elects to have the subject tested for HIV, Hepatitis B, or Hepatitis C. If the exposed employee does elect to have the subject tested, the supervisor shall ensure that this form is completed within two calendar days. The supervisor will sign the document and then submit this form to: County Public Health Department, Attention: County Health Officer, Fax: 408-792-3799. The original will be retained by the Bureau's Safety Officer and a copy will be given to the employee.
   (a) The County Health Officer will make a determination on whether the subject will be tested. If the County Health Officer determines the subject is not to be tested,

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

the Bureau may seek a court order (search warrant) to compel the subject to be tested.

9. The supervisor shall complete the Route of Exposure Report (Attachment G) and submit it to the Bureau's Safety Officer. A copy of this report shall be provided to the employee to provide to his/her healthcare professional providing the employee's post exposure medical evaluation.

10. The supervisor will interview all witness employees and shall complete an employee witness report using standard Bureau report format. This report will be reviewed by the Chief Investigator and then submitted to and maintained by the Bureau's Safety Officer.

11. The supervisor shall advise the employee that exposure counseling may be available through the following facilities:

    (a) The employee's pre-designated physician and/or medical group.

    (b) The County's Employee Assistance Program, 408-241-7772.

    (c) The healthcare professional providing the employee's post exposure medical evaluation.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Use and Application of Naloxone

218.1 PURPOSE AND SCOPE

To establish guidelines and regulations governing the utilization of Naloxone by the Santa Clara County District Attorney's Office Bureau of Investigation Investigators with the objective to reduce the number of fatal opiate overdoses and increase officer safety.

218.2 POLICY

It is the policy of the Santa Clara County District Attorney's Office Bureau of Investigation that investigators are required to be trained in the use and appropriate application of Naloxone. The Santa Clara County EMS Agency, in addition to recent legislation, has authorized law enforcement personnel who have received training in the application of Naloxone, to possess and administer Naloxone.

218.3 DEFINITIONS

Naloxone Hydrochloride (Narcan): Naloxone, also commonly known as Narcan, is a prescription medication used for the treatment of a possible opioid or suspected opioid overdose.

Intranasal: Naloxone is a narcotic antagonist which works by affecting opiate receptor sites within the brain. Naloxone is administered into the subject's nose via intranasal administration (spray).The nasal cavity is covered by a thin mucosa,which is extremely vascular and provides a direct route into the blood stream of the subject. This method of administration is noninvasive and quickly effective.

Opioid Overdose: An opioid overdose is an acute, life threatening,medical condition caused by excessive intake of opiates, such as heroin, morphine, tramadol and oxycodone. This serious medical condition causes the victim to suffer from an altered level of consciousness, pinpoint pupils, respiratory arrest,and can lead to death.

218.4 PROCEDURE

1. ISSUING NALOXONE KITS

   (a) Only authorized investigators who have completed the prescribed training in the use and application of Naloxone will be assigned to carry and utilize Naloxone.

   (b) The Chief Investigator shall designate a Naloxone Coordinator for the Bureau. When trained personnel are assigned to carry Naloxone,an Equipment Inventory Log shall be completed and maintained by the Naloxone Coordinator. This log shall include the assigned Naloxone kit number, date, and time the equipment is issued and the location that particular kit number will be stored.

   (c) Naloxone must be stored in a climate-controlled area within manufacturer temperature specifications and in a location where access to the medication can be controlled pending issuance to a specific division, facility or person.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

(d) Designated personnel shall conduct a pre-service inspection of the Naloxone kit and confirm its condition. Inspections of the secured safety case will be to ensure it is clean and not damaged or expired prior to placing the kit into service.

(e) The Naloxone kit will be stored in a secured location that can be easily accessed and utilized when needed. Examples of storage locations may include but not be limited to the following examples:

1. 3rd Floor Equipment Room
2. 3rd Floor Evidence Storage Room
3. 1st Floor Reception Area
4. Medical Kit assigned to each investigator

(f) Due to the manufacturers recommended storage temperature requirements, investigators must ensure the storage of the Medical Kits containing the Naloxone is not subjected to high temperatures within the vehicle for extended periods of time.

2. USING NALOXONE

(a) Investigators who are trained in the use of Naloxone,are authorized to use it without prior approval in cases where an opiate overdose is suspected.

(b) When using Naloxone trained personnel will maintain universal precautions against blood borne pathogens.

(c) Prior to administration of Naloxone, personnel must assess the victim for lack of breathing, pulse, and unresponsiveness. If the victim is not breathing and/ or has no pulse, personnel should immediately begin CPR. Administering personnel should conduct a brief visual survey for any obvious signs, symptoms or evidence of drug use or exposure. Signs and symptoms may include, but are not limited to, the victim is unable to awaken with loud noise or rubbing firmly on the middle of the chest, slow or shallow breathing, lack of breathing and/or pinpoint pupils.

(d) If administering personnel determine the victim is suffering from opiate-based over-dose an immediate request for Emergency Medical Services(EMS) will be made prior to the administration of Naloxone.

(e) Naloxone shall be administered by trained personnel utilizing intra-nasal method only as approved by the Santa Clara County EMS Agency and in accordance with training guidelines within this policy.

(f) If after 3 minutes no patient response to the Naloxone is observed, a **second** dose may be administered if EMS personnel have not arrived on scene.

(g) On-scene medical personnel shall be informed when Naloxone has been administered so necessary further medical assessments can be made.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

218.5 TRAINING

(a) Senate Bill 1438 authorizes Law Enforcement Personnel to administer Naloxone to a person at risk of an opioid-related overdose without being subject to civil or criminal liability.

(b) Training is required prior to the authorization of personnel to administer Naloxone. The training will consist of patient assessment (signs and symptoms of overdose), distinguishing between the different types of overdose, rescue breathing, and the use of intra-nasal Naloxone as described in this order and follow-up care.

(c) The initial training will be presented by Santa Clara County Public Health staff in conjunction with the Santa Clara County EMS Agency. Refresher training will be provided in conjunction with mandated First Aid/CPR training once every two years.

(d) Each training session will include a knowledge question and answer component and a Naloxone training acknowledgement form shall be signed at the completion of each initial and refresher training session (See Attachment A). These acknowledgement forms shall be provided and collected by the designated instructor at the time of training and retained in the investigator' training file.

218.6 MAINTENANCE AND REPLACEMENT

(a) Inspection of the Naloxone kit shall bethe responsibility of the designated personnel who are in possession of the equipment. The Naloxone kit shall be kept inside Bureau of Investigation vehicles and not in the trunk while the investigator is in service. This is imperatives since extreme temperature changes may affect the effectiveness and integrity of the medication.

(b) The Naloxone Coordinator will facilitate an inspection of the Naloxone kits on an annual basis and maintain issuing and replacement logs for auditing and compliance purposes.

(c) Missing or damaged Naloxone kits will be reported as missing or damaged equipment to the on-duty immediate supervisor. The supervisor will notify the Naloxone Coordinator who will re-issue supplies as available.

(d) Naloxone can only be obtained by the Naloxone Coordinator on an as needed basis. All replenishment supply orders shall be directed to the Naloxone Coordinator for processing.

218.7 DOCUMENTATION AND REPORTING

Upon administering Naloxone and advising appropriate medical staff, the involved personnel shall complete an employee's report in addition to a **Naloxone Use Report** (See attachment: Naloxone Attachments.pdf) describing the details, circumstances and results of the incident. The report should include any information for victims, witnesses or suspects and include a detailed narrative describing symptoms observed and any evidence of drug use observed at the scene. This report is imperative for the Santa Clara County EMS Agency to conduct an audit of Naloxone administration within Santa Clara County. A copy of the Naloxone Use Report shall be sent to the Santa Clara County EMS Agency for tracking purposes.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

218.8 QUALITY IMPROVEMENT PROGRAM

The Bureau of Investigations is dedicated to continuous quality improvement with the storage, training and administration of Naloxone by department personnel. In an effort to ensure appropriate administration of Naloxone the Bureau of Investigations will review 100% of administrations of the medication by department personnel. Personnel are required to follow the appropriate documentation standards prescribed within this policy and submit to their supervisor for review. All incident reports will be forwarded to the Santa Clara County EMS Agency via email within 96 hours of administration.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Use of the District Attorney Special Fund

219.1 PURPOSE AND SCOPE

The District Attorney's Special Fund can be used for the following purposes:

- Witness relocation costs associated with the CALWRAP program.
- Non-CAL WRAP witness expenses.

Approval for the use of CAL WRAP related funds must be received from the District Attorney, Chief Assistant District Attorney, Chief Investigator, or Bureau Captain. Non-CAL WRAP witness expenses must be approved by the relevant Assistant District Attorney or higher.

The District Attorney Special Fund is maintained by the Office of the District Attorney Business Services Unit.

219.2 PROCEDURE

Prior to receiving funds from the account, the Special Fund voucher form must be completed to include case information documentation as to why the funds are needed. The completed form, with the required manager's signature will be returned to the District Attorney's Business Services Unit who will release the funds.

Non-CAL WRAP witnesses receiving funding pursuant to this policy shall sign to acknowledge receipt of funds prior to disbursement.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Bureau Credit Card Use Requirements

220.1 PURPOSE AND SCOPE

Credit cards have been assigned to the Bureau of Investigation that may be checked out by investigators for use in specific and limited circumstances related to County business and the business of the District Attorney's Office. Investigators shall be familiar with the credit card use procedures as set forth in this policy and shall strictly follow the use limitations and procedures as contained herein. Questions regarding the use of a BOI credit card should be directed to the investigator's supervisor or the District Attorney's Fiscal Unit.

220.2 PROCEDURE

In the absence of a P-Card, a Bureau of Investigation credit card may be used when normal travel arrangements made through the Travel Desk are unable to provide for the payment of goods or services that are required to complete investigative travel, movement of witnesses/victims or the last minute relocation of witnesses/victims requiring temporary lodging. Such goods and services may also include the purchase of food for witnesses/victims.

Prior to checking out a BOI credit card, investigators shall make every attempt to ensure that anticipated expenses are pre-determined and, when involving travel, are identified on a Travel Request form. Other expenses not otherwise listed on the form (e.g. gas for a rental car) or expenses not related to travel (e.g. lodging and/or food for a witness), should be first approved by the investigator's lieutenant by completing and signing the BOI Credit Card Use Form (see attached).

Prior to using a BOI credit card, investigators should familiarize themselves with the "Expense and Reimbursement Policies" as found on the County's employee web portal,to ensure proper utilization of the card. These policies include:

- Catering Reimbursement Policy
- Santa Clara County Travel Policy - Updated May, 1, 2018
- Procurement Card (P-Card) Policy
- Business Meal Policy (Non-Travel)

After approved goods and/or services are purchased with a BOI credit card, all receipts shall be maintained and a copy attached to the BOI Credit Card Use Form and returned to the Chief Investigator's Confidential Legal Secretary along with the credit card within 5 business days. All original receipts shall be attached to the Travel Reimbursement Request Form and returned to the Travel Desk within 10-days of completing the travel. In non-travel use circumstances, original credit card receipts shall be hand delivered to the 5thfloor fiscal officers.

CalWrap related expenditures should not be purchased on the BOI assigned credit cards, if at all possible. All such purchases should be made using the approved P-Card through the assigned CalWrap investigator or a Bureau Lieutenant. In an emergency, any CalWrap purchase made

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

on a BOI assigned credit card, whether for travel, food, services or lodging, requires that the original receipt and all forms and copies to be processed by the CalWrap investigator prior to being submitted to the Fiscal Unit or to the Chief Investigator's Confidential Legal Secretary.

220.3 COMMON MISTAKES WHEN USING THE BOI CARD

Generally, mistakes made when utilizing the BOI credit card are for not following per diem requirements for meals and lodging. When purchasing meals, the per diem rates must include taxes and tip. When purchasing lodging, the per diem rates do not include taxes. Valet parking is not an acceptable expense when other less expensive parking alternatives are available. When purchasing food for a victim or witness, the Santa Clara County Nutrition Policy may apply, which may prohibit the expenditure of County funds for prohibited food or drink.

The following rules were taken from the Santa Clara County Travel Policy to better explain meals and lodging requirements:

- Lodging expenses will be reimbursed or paid for at the actual expense up to the lodging per diem rate plus hotel tax when travel on official County business reasonably requires an overnight stay.
- The maximum amount reimbursable for lodging is based on the following rates posted by federal agencies:
  - For travel within the continental U.S., the per diem rates are based on U.S. General Services Administration ("GSA") rates;
  - For travel to non-contiguous U.S. states or U.S. possessions, the per diem rates are based on U.S. Department of Defense rates; and
  - For travel to foreign destinations, the per diem rates are based on U.S. Department of State rates..
- A valid, itemized receipt must accompany the lodging reimbursement claim.
- When traveling within the six bay area counties (Santa Clara, Alameda, Contra Costa, San Benito, San Mateo, and Santa Cruz), reimbursement for lodging is generally not authorized. Any exception must be approved pursuant to the travel exception approval process.
- Business Meal Reimbursement is for reasonable, actual costs including tips (no more than 20%, unless a mandatory gratuity is required), and shall not exceed the U.S. General Services Administration per diem rate per person by geographic area.
- Meals paid for clients or minors will be reimbursed at actual cost including tax and tip (no more than 20%, unless a mandatory gratuity is required), and shall not exceed the U.S. General Services Administration per diem rate for County travelers. County travelers claiming for such actual expense reimbursements must submit itemized meal receipt for the clients/minors.
- If a P-Card is used to purchase meals, itemized receipts are required regardless of the amount spent, and reimbursement will be based on actual receipt amount (the same

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

amount as shown on P-Card statement and assuming no alcohol is purchased), not to exceed the federal per diem rate.

220.4 BOI CREDIT CARD USE FORM

Upon checking out a BOI card, the investigator must complete Part 1 of the BOI Credit Card Use Form which lists the anticipated uses of the credit card, and approximate expenditure amount(s) – if known, as well as the BOI case number associated with the expenditure. If the date of the expenditure is known, that portion of Part 1 should also be completed. If not, an approximate date or range of dates should be completed. This form must be signed by the investigator and the investigator's lieutenant, or in his/her absence, another BOI lieutenant or Captain prior to the credit card being received.

Upon the return from travel or at the completion of the purchase of goods and/or services for allowed expenditures, the investigator shall complete Part 2 of the BOI Credit Card Use Form within 5 business days of the use of the card or return from travel, whichever applies. The form will list the date of the purchase, reason for the purchase and the amount expended. Copies of the credit card receipts shall be attached with the original receipt being attached to the Travel Reimbursement Request Form (if applicable). Similarly, to Part 1, the investigator and the investigator's lieutenant shall sign the form or in the lieutenant's absence, another BOI lieutenant or the Captain may sign the form. Both Part 1 and Part 2 shall be turned in to the Chief Investigator's Confidential Legal Secretary along with the credit card within the 5 business days noted. As noted above, the only exception are CalWrap related expenditures which must be first processed by the CalWrap investigator before being submitted to the Chief Investigator's Secretary or the 5thfloor (See attachment: Bureau of Investigation Credit Card Use Form.pdf).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Chapter 3 - Personnel

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Press and Media Relations

300.1 PURPOSE AND SCOPE

As public employees, the official actions of the District Attorney, his deputies, investigators and technicians are matters of concern to the community and should be open to the scrutiny of the public and the press. To accomplish this aim, while ensuring that the message conveyed is uniform, is sanctioned, and is appropriately managed, the Office of the District Attorney maintains an office-wide media policy to which all employees are expected to adhere.

Nothing in this policy is inteded to prohibit or infringe upon any communication, speech or expression that is protected or privileged under law. This includes speech and expression protected under the Constitution of the United States and the Constitution of the State of California, labor statutes and regulations (e.g. Meyers-Milias-Brown Act), and other applicable laws. For example, this policy does not restrict an employee from:

(a) Speaking as a private citizen about matters of public concern (such as fraud or corruption);

(b) Engaging in protected labor-speech and activities; or

(c) Expressing religious or political beliefs.

300.2 PROCEDURE

All employees will familiarize themselves with, and abide by, SCCDA Policy and Procedure Manual Section 5.01(a)(iv), entitled "Media Policy."

With respect to personnel assigned to the Bureau of Investigations, the office-wide media policy specifically states "investigators shall not speak to the news media concerning his/her official job duties without express authorization from the District Attorney, Chief Assistant District Attorney or Chief Investigator. Of course, if investigators are conducting routine duty such as service of a warrant, they should when asked, identify themselves as District Attorney Investigators.

Support staff supervised by the Bureau of Investigation shall not speak to the news media without express authorization from the District Attorney or Chief Assistant District Attorney or Chief Investigator.

Bureau employees receiving requests for information from members of the media will refer the requestor to the Office Media Coordinator. No official statements will be provided without the express authorization of the District Attorney, the Chief Assistant District Attorney, or the Chief Investigator.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Gratuities

301.1 PURPOSE AND SCOPE

As law enforcement professionals, it is important to recognize the ramifications that the acceptance of gratuities has upon the organization and the individual. Acceptance of the slightest gratuity has the potential to create a grievous conflict of interest for both the employee and the Office of the District Attorney. Bureau of Investigation personnel shall not accept gratuities that arise from their professional responsibilities.

301.2 PROCEDURE

Bureau of Investigation personnel will remain cognizant of Santa Clara County District Attorney Policy and Procedures Manual section 5.01(b)(iv)1 and Bureau of Investigation PPM 305, subsection "Standards of Conduct - § 305.5.2."

Bureau of Investigation personnel shall not receive nor accept gratuities offered by anyone.

For the purposes of this policy, a gratuity is defined as "receiving or accepting, directly or indirectly, any gift, including money, or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the investigator's or employee's appointing authority or whose activities are regulated or controlled by the appointing authority under circumstances from which it reasonably could be substantiated that the gift was intended to influence the investigator or employee in his or her official duties or was intended as a reward for any official actions performed by the investigator or employee."

Additionally, Santa Clara County District Attorney Policy and Procedures Manual section 5.01(b)(iv)1 states that "employees in the district attorney's office shall not solicit or accept gifts offered in appreciation of services rendered as public employees."

Bureau of Investigation personnel to whom any gratuity is offered will, as politely as possible, refuse acceptance of that gratuity.

If a delivery of a gratuity is made to an employee's home or to the Office of the District Attorney when that employee is not present to decline receipt of that gratuity, the employee will ensure that the gratuity is returned to the sender as soon as possible after notifying his/her supervisor. The employee to whom the gratuity was directed, should forward a letter to the sender politely stating the gratuity cannot be accepted.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Personal Appearance Standards

302.1 PURPOSE AND SCOPE

Personal appearance standards are intended to ensure members of the Bureau of Investigation present a professional image throughout the community as representatives of the District Attorney's Office. The following standards will be monitored for change on an "as needed" basis. Any exception to these standards shall require authorization from the Chief Investigator or designee.

302.2 DRESS

302.2.1 DAILY WEAR

Investigators shall wear appropriate dress depending on his/her duties for the day. Generally, the wearing of court attire should be the daily standard for investigators that expect to have contact with the general public, when representing the Office at outside community or governmental agency meetings, or when attending court. Investigators expecting to only work in the office may dress in business casual attire for that day (e.g. slacks, dress shirt and dress shoes) though they should have court attire available should the need arise. More casual dress may be approved by the investigator's supervisor in order to meet a business need or application.

Regardless of the dress worn by an investigator, an investigator's service weapon (and back-up weapon, if applicable) shall be appropriately covered when an investigator is outside of the office in the public domain, in meetings with non-law enforcement personnel or in court. An exception to this practice shall be when investigators are required to wear a tactical vest, during law enforcement-only training, or when required by the circumstances of a tactical event.

302.2.2 TACTICAL WEAR

When investigators are assigned to a tactical event such as the serving of an arrest or search warrant or when responding to a potentially hostile event, investigators shall wear an approved tactical vest and issued bullet proof vest. The tactical vest shall clearly display an actual or cloth badge displaying the District Attorney Investigator insignia as well as authorizedinsignias on the front and the back of the vest that clearly identifies the investigator as a law enforcement official (e.g. "Police – D.A. Investigator").

Other tactical items may be worn on the vest to include a flashlight, radio, and magazine holder as long as those additional items do not interfere with the safe use, drawing, or holstering of assigned weapon(s).

302.3 APPEARANCE STANDARDS

Unless otherwise stated the following appearance standards shall apply to all sworn investigators, except those whose current assignment would deem them not appropriate, and where the Chief Investigator or designee has granted an exception.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

302.3.1 HAIR
All sworn employees shall keep their hair clean, neat, well-groomed and of a natural color. The hair shall be arranged so that it does not interfere with vision in any way and is kept out of the eyes.

Male investigators shall maintain a trimmed hair style that does not extend over the mid-line of a dress shirt collar.

302.3.2 MAKE-UP
The use of facial make-up shall be conservative and in keeping with the professional image of the Santa Clara County District Attorney's Office.

302.3.3 MUSTACHES AND FACIAL HAIR
A short and neatly trimmed mustache, beard or goatee of natural color may be worn. Mustaches and goatees shall be well groomed and of a conservative style. "Fu-Manchu" type mustaches are not approved.

302.3.4 SIDEBURNS
Sideburns shall not extend below the bottom of the outer ear opening (the top of the earlobes) and shall be trimmed and neat.

302.3.5 FINGERNAILS
Fingernails shall be maintained so as to not interfere in any way with the performance of primary assignment or duties. In addition, investigators shall maintain their fingernails so as to not interfere with the safe use, drawing, or holstering of their assigned weapon(s).

302.4 JEWELRY AND ACCESSORIES
Jewelry may only be worn that does not interfere with the proper operation of safety, tactical and/ or office equipment and is in keeping with the "Daily Wear" standards of this policy.

Female investigators may wear earrings; however, long dangling or hooped earrings (e.g. greater than 1") that could interfere with the proper operation of safety, tactical and/or office equipment or could present an officer safety issue are not allowed.

302.5 TATTOOS, BODY ART, BRANDS, INTENTIONAL SCARRING OR DENTAL ORNAMENTATION
While on-duty or representing the Office in any official capacity, no investigator shall allow a tattoo or other body art to be visible in any way. Tattoos and body art shall be covered by means such as long sleeved shirts, pants, tasteful make-up, or small Bandaids. Other methods to conceal tattoos or body art must be pre-approved by the Chief Investigator.

An exception to the requirement to cover tattoos, body art, brands or intentional scarring would only be in circumstances in which the affected investigator is participating in range or other law enforcement training in which weather conditions are such that long sleeved shirts or other types of covering interferes with the training or presents a health hazard to the investigator. Additionally, a specific duty assignment (e.g. working in a UC capacity) may make the covering of such markings

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

impractical or unnecessary. Irrespective of the reason, specific and affirmative supervisory approval is required before an investigator exercises this exception.

At no time while on duty or representing the 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. There are no circumstances in which an exception to this policy will be allowed.

On-duty investigators shall not have any dental ornamentation. The use of gold, platinum, silver or other veneer caps for the purpose of ornamentation are prohibited. Teeth, whether natural, capped or veneered, shall not be ornamented with designs, jewels, initials, etc.

302.6 BODY PIERCING OR ALTERATION

With the exception of pierced earrings, no visible display of pierced body jewelry shall be allowed for any Bureau investigator. Additionally, no alteration to any area of the body visible in any attire that is a deviation from normal anatomical features and which is not medically required is prohibited. Such body alteration includes, but is not limited to:

(a) Tongue splitting or piercing.

(b) The complete or transdermal implantation of any material other than hair replacement.

(c) Abnormal shaping of the ears, eyes, nose or teeth.

(d) Branding or scarification.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Reporting Responsibilities

303.1 PURPOSE AND SCOPE

When an employee of the District Attorney's Office Bureau of Investigation is either a victim or a defendant in a criminal case, or has knowledge that an immediate family member is a victim or defendant in a criminal case that may be prosecuted or litigated in Santa Clara County, that employee will notify the Chief Investigator in writing no later than the next working day after acquiring knowledge of this circumstance.

The Administration Lieutenant or designee shall submit within 30 days a notice to the Commission on Peace Officer Standards and Training ("POST"),via the Electronic Data Interchange (EDI) system,of any appointment, termination, reinstatement, name change or status change regarding any peace officer employed by the District Attorney's Office. Similarly, whenever a peace officer or former peace officer of the District Attorney's Office is adjudged guilty of a felony offense, or for any reason specified in Government Code § 1029 that disqualifies the individual from being employed as a peace officer, POST shall be notified in writing within 30 days of the final disposition(11 C.C.R. § 1003).

303.2 PROCEDURE

Employees in the Bureau of Investigation will remain cognizant of SCCDA Policy and Procedure Manual Section 5.01(b) (iv)4 - Reporting Responsibilities in Alleged Criminal Activity or Misconduct - and shall report pursuant to the Non-Attorney Employee Reporting Responsibilities.

Employees of the Bureau of Investigation shall notify the Chief Investigator under any of the following circumstances.

(a) In the event an investigator, or retired investigator with an identification card issued by the Department,is arrested for, charged with, accused of, or is the subject of an investigation, or convicted, in any jurisdiction, of any public offense (excluding traffic infractions), the investigator shall notify the Chief Investigator and Chief Assistant District Attorney in writing (memo or e-mail) no later than the next working day following the acquisition of knowledge of this circumstance.

(b) A Bureau of Investigation employee who is the victim of, or a witness to, a crime (outside of one originating from the employee's official duties) that may be prosecuted or litigated in Santa Clara County must notify the Chief Investigator and Chief Assistant District Attorney in writing (memo or e-mail) no later than the next working day after acquiring knowledge of this circumstance. A Bureau of Investigation employee who lodges a complaint through the consumer fraud mediation services should also notify his/her supervisor in writing (memo or e-mail) within one working day.

(c) In the event a Bureau of Investigation employee's immediate family is arrested for charged with, accused of, or is the subject of an investigation in Santa Clara County of any public offense (excluding traffic infractions), the employee shall notify the Chief Investigator and the Chief Assistant District Attorney in writing (memo or e-mail) no later than the next working day following the acquisition of knowledge of this

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

involvement. *Immediate family includes a spouse, fiancé or fiancée, domestic partner, children, brother or sister, mother or father and any other person who lives in the employee's home in a close relationship. Immediate family also includes any other relationship that is equivalent to one of those specifically set forth.*

(d) All Bureau of Investigation employees and all retired investigators with an identification card issued by the Office shall further promptly notify the Chief Investigator in writing as soon as possible, but no later than the next working day, if the employee or retiree becomes the subject of a domestic violence restraining order or similar court order.

(e) Any Bureau of Investigation employee of the District Attorney's Office *shall not* handle any case or complaint where either the victim/complainant or the defendant is a friend or relative. Should an employee find a case assigned to him/her that involves a family member or a friend, that employee must make notification as described above. (See, section 5.01 (b)(iv)(4)(a) Handling Person/Friend's Case). The case will be reassigned.

Any Bureau of Investigation employee whose criminal conviction unduly restricts or prohibits that employee from fully and properly performing his/her duties may be disciplined including, but not limited to,being placed on administrative leave, suspension, reassignment and/or termination.

The foregoing applies only to criminal offenses. Criminal offenses include all felonies and misdemeanors including the traffic offenses of driving under the influence, reckless driving, hit and run and driving with a suspended license. Traffic infractions are not included.

303.3 DOMESTIC VIOLENCE CONVICTIONS AND RESTRAINING ORDERS

California and federal law prohibit individuals convicted of certain offenses and individuals subject to certain court orders from lawfully possessing a firearm. Such convictions and court orders often involve allegations of the use or attempted use of force or threatened use of a weapon on any individual in a domestic relationship (e.g., spouse, cohabitant, parent, child) (18 USC §922; Penal Code § 29805).

All members are responsible for ensuring that they have not been disqualified from possessing a firearm by any such conviction or court order and shall promptly report any such conviction or court order to a supervisor, as provided in this policy.

303.4 OTHER CRIMINAL CONVICTIONS

Government Code § 1029 prohibits any person convicted of a felony from being a peace officer in the State of California. This prohibition applies regardless of whether the guilt was established by way of a verdict, guilty or nolo contendre plea.

Convictions of certain violations of the Vehicle Code and other provisions of law may also place restrictions on an employee's ability to fully perform the duties of the job.

Moreover, while legal restrictions may or may not be imposed by statute or by the courts upon conviction of any criminal offense, criminal conduct by members of this department may be inherently in conflict with law enforcement duties and the public trust.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

303.5 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.

Any member failing to provide prompt written notice pursuant to this policy shall be subject to discipline.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney’s Office, Bureau of Inves igation

Personnel Complaints

304.1 PURPOSE AND SCOPE

This policy provides guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members of the Santa Clara County District Attorney's Office, Bureau of Investigation. This policy shall not apply to any questioning, counseling, instruction, informal verbal admonishment or other routine or unplanned contact of a member in the normal course of duty, by a supervisor or any other member, nor shall this policy apply to a criminal investigation.

304.2 POLICY

The Santa Clara County District Attorney's Office, Bureau of Investigation takes seriously all complaints regarding the service provided by the Bureau and the conduct of its members.

The Office 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 Office to ensure that the community can report misconduct without concern for reprisal or retaliation.

304.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of Bureau policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

Inquiries about conduct or performance that, if true, would not violate Office policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Bureau of Investigation.

304.3.1 COMPLAINT CLASSIFICATIONS

Personnel complaints shall be classified in one of the following categories:

Misconduct Complaint

Personnel misconduct complaints include any allegation of misconduct or improper job performance against any Bureau employee that, if true, would constitute a violation of Bureau or Office policy, or of federal, state or local law, policy or rule. Personnel misconduct complaints may be generated internally or by the public.

Policy Complaint

When there is an allegation regarding a current Bureau or Office policy that was properly implemented by a Bureau member, but the complainant believes is inappropriate or not valid, the Bureau will use the classification of Policy Complaint.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Procedure Complaint

When there is an allegation regarding a current Bureau or Office procedure that was properly implemented by a Bureau member, but the complainant believes is inappropriate or not valid, the Bureau will use the classification of Procedure Complaint.

Inquiries

Inquiries about conduct or performance that, if true, would not violate Bureau or Office policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Bureau.

304.3.2 SOURCES OF COMPLAINTS
The following applies to the source of complaints:

(a) Individuals from the public may make complaints in any form, including in writing, by email, in person or by telephone.

(b) Any Bureau member becoming aware of alleged misconduct shall immediately notify a supervisor.

(c) Supervisors shall initiate a complaint based upon observed misconduct or receipt from any source alleging misconduct that, if true, could result in disciplinary action.

(d) Anonymous and third-party complaints should be accepted and investigated to the extent that sufficient information is provided.

(e) Tort claims and lawsuits may generate a personnel complaint.

304.4 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

304.4.1 COMPLAINT FORMS
Personnel complaint forms in languages other than English may also be provided, as determine necessary or practical.

304.4.2 ACCEPTANCE
All complaints will be courteously accepted by any bureau member and promptly given to the appropriate supervisor. Although written complaints are preferred, a complaint may also be filed orally, either in person or by telephone. Such complaints will be directed to a supervisor. If a supervisor is not immediately available to take an oral complaint, the receiving member shall obtain contact information sufficient for the supervisor to contact the complainant. The supervisor, upon contact with the complainant, shall complete and submit a complaint form as appropriate.

Although not required, complainants should be encouraged to file complaints in person so that proper identification, signatures, photographs or physical evidence may be obtained as necessary.

A complainant shall be provided with a copy of his/her statement at the time it is filed with the Bureau (Penal Code § 832.7). The following should be considered before taking a complaint:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(a) When an uninvolved supervisor determines that a citizen complaint is about a Bureau policy or procedure that was properly implemented by a Bureau member, the information shall be memorialized on a Bureau memorandum and forwarded to the Chief Investigator for review. The Chief Investigator shall determine if the complaint will be filed as a Procedure or Policy Complaint or if it will be assigned as a Misconduct Investigation.

(b) When the complainant is intoxicated to the point where his/her credibility appears to be unreliable, identifying information should be obtained and the person should be provided with a Citizen Complaint Form.

(c) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

Bureau employees will immediately notify the Chief Investigator of all criminal allegations or other allegations of serious misconduct. The Chief Investigator, or designee, will review the circumstances and will consult with the Chief Assistant District Attorney to determine whether a criminal investigation shall be initiated and by whom. A criminal investigation will be conducted separate and distinct from the administrative investigation.

304.4.3 AVAILABILITY OF WRITTEN PROCEDURES

The Bureau shall make available to the public a written description of the investigation procedures for complaints (Penal Code § 832.5).

304.5 DOCUMENTATION

The lieutenant or command staff investigator receiving a complaint will complete a Citizen Complaint Form. The lieutenant or command investigator shall ensure that the nature of the complaint is defined as clearly as possible.

The complainant's statement should be documented by recording it with their knowledge and consent. Surreptitious recordings are not permitted in an administrative investigation (PC 633). If the complainant declines to be recorded or is unavailable for an interview, the lieutenant or command investigator should prepare a brief written statement regarding the incident.

The complainant will be informed of his/her right to receive a copy of his/her statement at the time the complaint is filed (PC 832.7(b)). This will be prepared while the complainant waits or can be mailed to the complainant at the complainant's request within three days of receiving the complaint. A copy of their recorded statement may be provided to the complainant(s) at the time the complaint is made.

If the complainant refuses to sign the Citizen Complaint Form the Chief Investigator or his/her designee, will evaluate the information to determine whether or not an investigation will be opened. The Chief Investigator will consider the nature and the gravity of the complaint in making this determination.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

If the complaint is received by written correspondence or from an anonymous caller, the information will be provided to the Chief Investigator or his/her designee. This practice will also extend to instances when complaints are made and the complainant declines further interview or comment.

When appropriate, evidence should be gathered during the initial receipt of the complaint. Photos should be taken of injuries or damaged property. If appropriate, signed medical release forms will be obtained.

304.6 ADMINISTRATIVE INVESTIGATIONS

Allegations of misconduct will be administratively investigated as follows.

304.6.1 SUPERVISOR RESPONSIBILITIES

In general, the primary responsibility for the investigation of a personnel complaint shall rest with the employee's lieutenant, unless the lieutenant is the complainant,or the lieutenant is the ultimate decision-maker regarding disciplinary action or has any personal involvement regarding the alleged misconduct. The Chief Investigator or authorized designee may direct that another lieutenant investigate the complaint.

A lieutenant who becomes aware of alleged misconduct shall take reasonable steps to prevent aggravation of the situation.

The responsibilities of lieutenants 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 Lieutenant 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 lieutenant shall orally report the matter to the member's Captain Lieutenant or the Chief Investigator, who will initiate appropriate action.

(b) Responding to all complainants in a courteous and professional manner.

(c) Resolving those personnel complaints that can be resolved immediately.

  1. Follow-up contact with the complainant should be made within 24 hours of the Bureau receiving the complaint.

  2. If the matter is resolved and no further action is required, the lieutenant will note the resolution on a complaint form and forward the form to the Captain.

(d) Ensuring that upon receipt of a complaint involving allegations of a potentially serious nature, the lieutenant and the Chief Investigator are notified via the chain of command as soon as practicable.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(e) Promptly contacting the EOD investigator and the Captain for direction regarding their roles in addressing a complaint that relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination.

(f) Forwarding unresolved personnel complaints to the lieutenant, 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.

304.6.2 ADMINISTRATIVE INVESTIGATION PROCEDURES

The following procedures shall be followed with regard to employee(s) covered by the Public Safety Investigators Procedural Bill of Rights Act (POBR) (Government Code § 3303):

(a) Interviews of an accused employee shall be conducted during reasonable hours and preferably when the member is on-duty. If the employee is off-duty, he/she shall be compensated.

(b) Unless waived by the employee, interviews of an accused employee shall be at the Santa Clara County District Attorney's Office, Bureau of Investigation or other reasonable and appropriate place.

(c) No more than two interviewers should ask questions of an accused employee.

(d) Prior to any interview, an employee shall be informed of the nature of the investigation, the name, rank and command of the investigator in charge of the investigation, the interviewing officers and all other persons to be present during the interview.

(e) All interviews shall be for a reasonable period and the employee's personal needs should be accommodated (Government Code §3303 (d)).

(f) No employee should be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers.

(g) Any employee 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. An employee should be given an order to answer questions in an administrative investigation that might incriminate the employee in a criminal matter only after the employee has been given a *Lybarger* advisement. Administrative

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

investigators should consider the impact that compelling a statement from the employee may have on any related criminal investigation and should take reasonable steps to avoid creating any foreseeable conflicts between the two related investigations. This may include conferring with the person in charge of the criminal investigation (e.g., discussion of processes, timing, implications).

2. No information or evidence administratively coerced from a employee may be provided to anyone involved in conducting the criminal investigation or to any prosecutor.

(h) Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. The employee may also record the interview. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview.

(i) All employees 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 employees shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed.

(j) All employees shall provide complete and truthful responses to questions posed during interviews.

(k) No employee may be requested or compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any investigation (Government Code § 3307).

No investigation shall be undertaken against any investigator solely because the investigator has been placed on a prosecutor's *Brady* list or the name of the investigator may otherwise be subject to disclosure pursuant to *Brady v. Maryland*. However, an investigation may be based on the underlying acts or omissions for which the investigator has been placed on a *Brady* list or may otherwise be subject to disclosure pursuant to *Brady v. Maryland* (Government Code § 3305.5).

304.6.3 ADMINISTRATIVE INVESTIGATION FORMAT

Investigations of personnel complaints shall be detailed, complete and essentially follow the following format:

(a) Introduction – Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

(b) Background – Provide a brief summary of the facts giving rise to the investigation.

(c) Applicable Authorities – List the policy and procedure sections applicable for the type of allegations given.

(d) Investigation – A listing of the investigative steps should be provided (e.g. "Interviewed Investigator Smith on 1/1/11. Interview was recorded and Attorney Jones was present representing Investigator Smith").

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(e) Analysis – List the allegations separately and detail the evidence applicable to each allegation. Include comprehensive summaries of employee and witness statements. Other evidence to each allegation should also be detailed in this section.

(f) Employee's History and Past Discipline – A summary of the employee's work history and any past discipline (within the last 5 years) should be described.

(g) Findings – A recommendation as to each allegation should be provided as to whether any of the specified applicable policies or procedure have been violated or if further action or disposition should be provided.

(h) Exhibits – A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

304.6.4 DISPOSITIONS

Each allegation shall be classified with one of the following dispositions:

Unfounded– When the investigation discloses that the alleged act(s) did not occur or did not involve Bureau personnel. Complaints which are determined to be frivolous will fall within this classification of unfounded (Penal Code § 832.5(c)). As per Civil Code of Procedure §128.5 (b) (2) "Frivolous" means (A) totally and completely without merit or (B) for the sole purpose of harassing an opposing party.

Exonerated– When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

Not Sustained– When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

Sustained– When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

No Finding –

- The complainant failed to disclose promised information needed to further the investigation.
- The investigation revealed that another agency was involved and the complainant has been referred to that agency.
- The complainant withdrew the complaint.
- The complainant is no longer available for clarification of material issues.
- The Bureau no longer employs the subject employee and the investigation is not completed.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

304.6.5 COMPLETION OF INVESTIGATIONS

All administrative investigations and office initiated administrative investigations should ideally be completed within 300 days from receipt of the complaint to ensure that the case review process can move forward unencumbered by time constraints as defined in Government Code § 3304 (d)(1-8). The exemptions listed in Government Code § 3304 shall toll these time constraints.

In the event the Bureau is considering extending or tolling the one year statute of limitations (Government Code § 3304 (d)(1-8) and 3508.1(a)(1-8), or reopening an investigation (Government Code § 3304(g) and 3508.1(d), the Bureau should first consult with the Office of Labor Relations and the County Counsel's Office to get a legal opinion as to the appropriate course of action. This consultation should be sought as early in the course of the administrative investigation as possible, so as not to prejudice the ability of the County to discipline an employee should the County decide that tolling is not appropriate.

304.6.6 NOTICE TO COMPLAINANT OF INVESTIGATION STATUS

The supervisor conducting the investigation should provide the complainant with periodic updates on the status of the investigation, as appropriate.

304.7 ADMINISTRATIVE SEARCHES

Assigned lockers, storage spaces and other areas, including desks, offices and vehicles, may be searched as part of an administrative investigation upon a reasonable suspicion of misconduct.

Such areas may also be searched any time by a supervisor for non-investigative purposes, such as obtaining a needed report, radio or other document or equipment.

Lockers and storage spaces may only be administratively searched in the member's presence, with the member's consent, with a valid search warrant or where the member has been given reasonable notice that the search will take place (Government Code § 3309).

304.7.1 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

Employees shall have no expectation of privacy when using telephones, computers, radios or other communications provided by the Bureau or County.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

304.7.2 TESTING FOR ALCOHOL OR DRUGS

An employee of this Bureau may be administratively ordered to submit to a blood, breath, or urine test for alcohol and drugs when it is reasonably suspected that the employee is under the influence of said alcohol and/or drugs and is involved in any of the following circumstances:

- When an employee, whether on or off-duty, is involved in a shooting or police related death.
- When the employee is involved in an injury or fatal accident while on duty.
- When the employee is involved in an injury or fatal accident while operating any County owned vehicle whether on or off-duty.
- When the employee is found to be exhibiting objective symptoms of intoxication or drug influence while on duty.

The use of compelled alcohol/drug testing results shall be limited to the administrative investigation.

304.8 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 Bureau or Office, the District Attorney, Chief Assistant District Attorney or the Chief Investigator, has the authority to temporarily assign a Bureau employee on administrative leave.

An employee placed on administrative leave may be subject to the following guidelines:

(a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.

(b) An employee placed on administrative leave may be required to relinquish any badge, Bureau identification, assigned weapon(s) and any other Bureau equipment.

(c) An employee placed on administrative leave may be ordered to refrain from taking any action as a bureau employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor.

(d) An employee placed on administrative leave may be required to remain available for contact at all times during their regularly assigned shift and report as ordered.

(e) At such time as any employee placed on administrative leave is returned to full and regular duty, the employee shall be returned to their regularly assigned shift with all badges, identification card, and other equipment returned.

304.9 CRIMINAL INVESTIGATION

Where an employee of this Bureau is accused of potential criminal conduct, a separate lieutenant or investigator shall be assigned to coordinate the investigation of the criminal allegations apart from any administrative investigation. Such investigation may be conducted by an outside agency if deemed necessary by the District Attorney. Any separate administrative investigation may parallel a criminal investigation.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

The Chief Investigator shall be notified as soon as practical when an employee is formally accused of criminal conduct. The Chief Investigator shall consult with the Chief Assistant District Attorney or the District Attorney to determine the appropriate agency to conduct the criminal investigation.

The District Attorney's Office may release information concerning the arrest or detention of any member, including an investigator, that has not led to a conviction. No disciplinary action should be taken until an independent administrative investigation is conducted

304.10 POST-ADMINISTRATIVE INVESTIGATION PROCEDURES

Upon completion of a formal investigation, an investigation report should be forwarded to the Chief Investigator through the chain of command. Each level of command should review and include his/her comments in writing on a Bureau Transmittal before forwarding the report. The Chief Investigator may accept or modify any classification or recommendation for disciplinary action.

304.10.1 CHIEF INVESTIGATOR RESPONSIBILITIES

Upon receipt of any written recommendation for disciplinary action, the Chief Investigator shall review the recommendation and all accompanying materials. The Chief Investigator may modify any recommendation and/or may return the file to the responsible lieutenant for further investigation or action.

Once the Chief Investigator is satisfied that no further investigation or action is required by staff,

the Chief Investigator shall determine the amount of discipline, if any, that should be imposed. The Chief Investigator shall then forward his/her recommendation to the Chief Assistant District Attorney for approval or modification.

In cases involving formal discipline (letter of reprimand, suspension, termination, demotion, reduction in pay or transfer), the proposed Notice of Intent to Discipline (NOID) will be sent to Labor Relations for review. Once approved, the Chief Investigator shall serve the employee with the written NOID which shall provide the employee with a pre-disciplinary procedural due process hearing (Skelly) and notice of the charges, proposed action and reasons for the proposed action. Such written notice shall be provided within one year from the date of discovery of the misconduct (Government Code § 3304(d)). The Chief Investigator shall also provide the member with:

(a) Access to all of the materials considered by the Chief Investigator in recommending the proposed discipline.

(b) An opportunity to respond orally or in writing to the Chief Investigator within five days of receiving the notice.

(c) Upon a showing of good cause by the employee, the Chief Investigator may grant a reasonable extension of time for the member to respond.

(d) If the employee elects to respond orally, the presentation may be recorded by the Office. Upon request, the employee shall be provided with a copy of the recording.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Once the employee has completed his/her response, or if the employee has elected to waive any such response, the Skelly Hearing Investigator shall consider all information received in regard to the recommended discipline. The Skelly Hearing Investigator shall render a timely written decision (Notice of Final Disciplinary Action) to the employee and specify the grounds and reasons for discipline and the effective date of the discipline. Once the Skelly Hearing Investigator has issued a Notice of Final Disciplinary Action the discipline shall become effective.

Santa Clara County Labor Relations Policy dictates that for Letters of Reprimand, the affected employee will be served a Letter of Reprimand inclusive of a notice advising the employee of their right to an administrative hearing rather than serving the employee with a NOID.

304.10.2 NOTICE OF FINAL DISPOSITION TO THE COMPLAINANT
The Chief Investigator or the authorized designee shall ensure that the complainant is notified of the disposition (i.e., sustained, not sustained, exonerated, unfounded, no finding) of the complaint (Penal Code § 832.7(e)).

304.10.3 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)).

304.11 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 Skelly Hearing Investigatorafter 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 Skelly Hearing Investigator to consider.

(d) In the event that the Skelly Hearing Investigator 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 Skelly Hearing Investigatoron the limited issues of information raised in any subsequent materials.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

304.12 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.

304.13 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 the employee 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).

304.14 PROBATIONARY INVESTIGATORS

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 employee subjected to an investigation into allegations of misconduct shall be entitled to those procedural rights, as applicable, set forth in the POBR (Government Code § 3303; Government Code § 3304). 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 Investigator 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 Investigator shall be final.

304.15 RETENTION OF PERSONNEL INVESTIGATION FILES

All personnel misconduct complaint investigations shall be maintained for a period of no less than five years (Penal Code § 832.5 (b)).

All Procedure and Policy Complaints shall also be maintained for a period of no less than five years.

Upon an administrative investigation file reaching its 6th year of retention; it shall be purged by the Bureau's Custodian of Records during the months of January – March of each year. The Bureau's Custodian of Records is only responsible for the administrative investigative files retained by this

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Bureau as he/she has no authority over files or notes retained by County Counsel or the Office of Labor Relations.

An administrative investigative file will not be purged when there is a legal proceeding or court order directly related to the administrative case. Once the legal proceeding is completed and upon approval of County Counsel, the effected file will be purged.

304.16 APPROVED FINDINGS

The Chief Investigator, or his/her designee, will ensure that the recommended action is implemented and will be processed in the following manner:

- SUSTAINED CASES: A written notice of completion and finding will be returned directly to the involved employee. A copy of the disciplinary record, which results in a written reprimand, suspension, demotion, reduction in salary, transfer or dismissal, will be placed in the Personnel file of the involved employee (GC 3305).
- OTHER THAN SUSTAINED CASES: The notice of completion and finding will be returned directly to the involved employee (GC 3306).

The employee will be afforded the opportunity to submit a written response for inclusion in the case file and/or Personnel file within 30 days of the Notice of Final Disciplinary Action.

The Chief Investigator, or his/her designee, subject to the provisions of the County of Santa Clara Merit System Rules and/or Bureau Policies and Procedures may take one or more of the following actions.

- Training
- Informal Counseling
- Documented Oral Counseling
- Written Reprimand
- Transfer
- Suspension
- Demotion
- Dismissal from County employment

304.17 CONFIDENTIALITY OF PERSONNEL FILES

All investigations of personnel complaints shall be considered confidential peace officer personnel files. The contents of such files shall not be revealed to other than the involved employee or authorized personnel except pursuant to lawful process.

The Bureau may release factual information concerning a disciplinary investigation if the investigator who is the subject of the disciplinary investigation, or the investigator's agent or representative, publicly makes a statement he or she knows to be false concerning the

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

investigation or the imposition of disciplinary action. Information may not be disclosed by the peace officer's employer unless the false statement was published by an established medium of communication, such as television, radio, or a newspaper. Disclosure of factual information by the employing agency pursuant to this subdivision is limited to facts contained in the peace officer's personnel file concerning the disciplinary investigation or imposition of disciplinary action that specifically refute the false statements made public by the peace officer or his or her agent or representative (Penal Code § 832.7 (d)).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Standards of Conduct

305.1 PURPOSE AND SCOPE

To provide Bureau of Investigation ("Bureau") employees with guidelines for their conduct in order that they may participate in meeting the goals of the District Attorney's Office ("Office") in serving the community.

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

305.2 POLICY

The continued employment of every employee of this Bureau shall be based on conduct that reasonably conforms to the guidelines set forth herein and to the relevant sections of the Santa Clara County District Attorney Policy and Procedure Manual ("SCCDA PPM") and to the Santa Clara County Merit System Rules. Failure of any employee to meet the guidelines set forth in this policy or relevant sections of the SCCDA PPM or Merit System Rules, whether on duty or off duty, may be cause for disciplinary action.

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 or the extent that it may be indicative of unfitness for his/her position.

305.3 DIRECTIVES AND ORDERS

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

305.3.1 UNLAWFUL OR CONFLICTING ORDERS

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

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

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

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

305.3.2 SUPERVISOR RESPONSIBILITIES

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

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

305.4 GENERAL STANDARDS

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

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

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

305.5 CAUSES FOR DISCIPLINE

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

305.5.1 LAWS, RULES AND ORDERS

1. Violation of, or ordering or instructing a subordinate to violate any policy, procedure, rule, order, directive, requirement or failure to follow instructions contained in Office/ Bureau or County manuals.
2. Disobedience of any legal directive or order issued by any Bureau employee of a higher rank.
3. Violation of federal, state, local or administrative laws, rules or regulations.

305.5.2 ETHICS

1. Using or disclosing one's status as a member of the District Attorney's Office in any way that could reasonably be perceived as an attempt to gain influence or authority for non-office/bureau business or activity.
2. 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.
3. The receipt or acceptance of a reward, fee or gift from any person for service incident to the performance of the employee's duties (lawful subpoena fees and authorized work permits excepted).
4. Acceptance of fees, gifts or money contrary to the rules of this Office and/or laws of the state.
5. Offer or acceptance of a bribe or gratuity.
6. Misappropriation or misuse of public funds, property, personnel or services.
7. Any other failure to abide by the standards of ethical conduct.

305.5.3 DISCRIMINATION

Discriminating against any person because of age, race, color, creed, religion, sex, sexual orientation, gender identity or expression, national origin, ancestry, marital status, physical or mental disability, medical condition or other classification protected by law, or intentionally denying or impeding another in the exercise or enjoyment of any right, privilege, power or immunity, knowing the conduct is unlawful.

305.5.4 RELATIONSHIPS

1. Unwelcome solicitation of a personal or sexual relationship while on-duty or through the use of one's official capacity.
2. Engaging in on-duty sexual activity.
3. Establishing or maintaining an inappropriate personal or financial relationship, as a result of an investigation, with a known victim, witness, suspect or defendant while a case is being investigated or prosecuted, or as a direct result of any official contact.
4. Associating with or joining a criminal gang, organized crime and/or criminal syndicate when the member knows or reasonably should know of the criminal nature of the

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

organization. This includes any organization involved in a definable criminal activity or enterprise, except as specifically directed and authorized by this department.

5. Associating on a personal, rather than official basis, with persons who demonstrate recurring involvement in serious violations of state or federal laws after the member knows, or reasonably should know of such criminal activities, except as specifically directed and authorized by this department.

305.5.5 ATTENDANCE

1. Leaving the job to which the employee is assigned during duty hours without reasonable excuse and proper permission and approval.
2. Unexcused or unauthorized absence or tardiness.
3. Excessive absenteeism or abuse of leave privileges.
4. Failure to report to work or to place of assignment at time specified and fully prepared to perform duties without reasonable excuse.

305.5.6 UNAUTHORIZED ACCESS, DISCLOSURE OR USE

1. Unauthorized and inappropriate intentional release of confidential or protected information, materials, data, forms or reports obtained as a result of the employee's position with this Office.
2. Employee's of this Office shall not disclose the name, address or image of any victim of human trafficking except as authorized by law (Penal Code § 293).
3. Disclosing to any unauthorized person any active investigation information.
4. The use of any information, photograph, video or other recording obtained or accessed as a result of employment or appointment to this Office for personal or financial gain or without the express authorization of the District Attorney or the authorized designee.
5. Loaning, selling, allowing unauthorized use, giving away or appropriating any Bureau of Investigation badge, uniform, identification card or Office property for personal use, personal gain or any other improper or unauthorized use or purpose.
6. Using Office 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.

305.5.7 EFFICIENCY

1. Neglect of duty.
2. Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.
3. Concealing, attempting to conceal, removing or destroying defective or incompetent work.
4. Unauthorized sleeping during on-duty time or assignments.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

5. Failure to notify the Office within 72 hours of any change in residence address, contact telephone numbers or marital status.

305.5.8 PERFORMANCE

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

305.5.9 CONDUCT

1. Failure of any employee to promptly and fully report activities on his/her part or the part of any other member where such activities resulted in contact with any other law

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

2. Unreasonable and unwarranted force to a person encountered or a person under arrest.
3. Exceeding lawful peace officer powers by unreasonable, unlawful or excessive conduct.
4. Unauthorized or unlawful fighting, threatening or attempting to inflict unlawful bodily harm on another.
5. Engaging in horseplay that reasonably could result in injury or property damage.
6. Discourteous, disrespectful or discriminatory treatment of any member of the public or any employee of this Office or the County.
7. Use of obscene, indecent, profane or derogatory language while on-duty.
8. Criminal, dishonest, or disgraceful conduct, whether on- or off-duty, that adversely affects the employee's relationship with this Office.
9. Unauthorized possession of, loss of, or damage to Office property or the property of others, or endangering it through carelessness or maliciousness.
10. Attempted or actual theft of Office property; misappropriation or misuse of public funds, property, personnel or the services or property of others; unauthorized removal or possession of Office property or the property of another person.
11. Activity that is incompatible with an employee's conditions of employment or appointment as established by law or that violates a provision of any Memorandum of Understanding or contract to include fraud in securing the appointment or hire.
12. Initiating any civil action for recovery of any damages or injuries incurred in the course and scope of employment or appointment without first notifying the District Attorney of such action.
13. Any other on- or off-duty conduct which any employee knows or reasonably should know is unbecoming a employee of this department, is contrary to good order, efficiency or morale, or tends to reflect unfavorably upon this Office or its employees.

305.5.10 SAFETY

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

305.5.11 INTOXICANTS

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

305.6 REPORTING REQUIREMENTS

Bureau members are part of the prosecution team of the District Attorney's Office and as such need to ensure that prosecutors are informed of potential conflicts or issues that may arise as a result of certain activities. Thus, Bureau employees are required to report the below listed activities as soon as practical upon the employee coming to know such activities have occurred:

1. To promptly and fully report activities on their own part where such activities have resulted in their arrest.
2. To promptly and fully report the arrest of an immediate family member in Santa Clara County (immediate family member means father, mother, brother, sister, children and spouse or other persons who have assumed the role of any of the foregoing).
3. To promptly and fully report that the employee or immediate family member is a witness to a crime in Santa Clara County or an employee or immediate family member has been subpoenaed or otherwise notified that he or she is to be called as a witness in such a case, and such pending testimony is outside the normal scope and duties of the employee of the Bureau of Investigation.
4. To promptly and fully report that the employee or immediate family member is a victim of a crime in Santa Clara County.
5. To promptly and fully report activities that have resulted in official contact by any other law enforcement agency (traffic infractions such as speeding, illegal turns etc. are not included).

305.7 INVESTIGATION OF DISCIPLINARY ALLEGATIONS

Regardless of the source of an allegation of misconduct raised against an employee of the Bureau, all such matters will be investigated in accordance with Personnel Complaints Procedure § 304. Pursuant to Government Code §§ 3304(d) and 3508.1, the investigation should be completed

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

within one year of the discovery of the allegations unless such investigation falls within one of the exceptions delineated within those provisions.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Discriminatory Harassment

306.1 PURPOSE AND SCOPE

This policy is intended to help create, promote and maintain a workplace free from all forms of unlawful Sexual Harassment, Discrimination and Retaliation.

306.2 POLICY

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

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

306.3 PROCEDURE

Santa Clara County ("County") has established policies relating to Sexual Harassment, Discrimination and Retaliation in the workplace. It is the policy of the Bureau of Investigation ("Bureau") that all employees follow and adhere to these policies:

- Santa Clara County Board of Supervisors' Policy on Sexual Harassment
- County of Santa Clara Policy on Sexual Harassment
- County of Santa Clara Policy Against Discrimination, Harassment, and Retaliation
- SCCDA Policy and Procedure Section 4.02(b), Policy Against Sexual Harassment

The County is an equal opportunity employer and is committed to creating and maintaining a work environment that is free of all forms of discrimination, harassment, sexual harassment, and retaliation. The Bureau will not tolerate discrimination against employees in hiring, promotion, discharge, compensation, fringe benefits and other privileges of employment. In addition, the Bureau will not tolerate discrimination, harassment, sexual harassment, or retaliation against members of the public or other County employees. The Bureau will take preventive and appropriate action to address any behavior that violates this policy or the rights it is designed to protect, up to and including dismissal.

For purposes of this policy, the Chief Investigator, Captain, and Lieutenants are "Managers and Supervisors." Criminal Investigator II's serving as Team Leaders are considered "Leads."

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

306.4 DISCRIMINATION PROHIBITED

306.4.1 DISCRIMINATION

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

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

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

306.4.2 RETALIATION

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

306.4.3 SEXUAL HARASSMENT

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

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

(a) Submission to such conduct is made either explicitly or implicitly a term or condition of employment, position, or compensation.

(b) Submission to, or rejection of, such conduct is used as the basis for any employment decisions affecting the member.

(c) Such conduct has the purpose or effect of substantially interfering with a member's work performance or creating an intimidating, hostile, or offensive work environment.

306.4.4 ADDITIONAL CONSIDERATIONS

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(a) Acts or omission of acts based solely upon bona fide occupational qualifications under the Equal Employment Opportunity Commission (EEOC) and the California Fair Employment and Housing Council guidelines.

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

306.5 RESPONSIBILITIES

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

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

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

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

306.5.1 EMPLOYEES

All Bureau employees are responsible for assuring that discrimination, harassment, sexual harassment, and retaliation do not occur in the workplace.

306.5.2 MANAGERS, SUPERVISORS AND LEADS

(a) Bureau Managers and Supervisors are responsible for the prevention and correction of sexual harassment occurrences in their areas of responsibility.

(b) Bureau Managers and Supervisors are responsible for making sure employees in their areas of responsibility are aware of County and Bureau policies, for assuring all personnel decisions in their areas are in accordance with these policies, and for initiating corrective action when offenses merit such.

(c) Pursuant to the County's Policy Against Discrimination, Harassment, and Retaliation, Bureau Managers, Supervisors and Leads are responsible for preventing discrimination, harassment, and retaliation. In addition, Managers, Supervisors and Leads are responsible for upholding this Policy by:

    (a) Reviewing practices to remove barriers to equitable access to programs, services and contracting opportunities.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(b) Ensuring that the workforce is trained to recognize discrimination, harassment, and retaliation.

(c) Addressing and correcting issues of discrimination, harassment, or retaliation in a timely manner.

(d) Bureau Managers and Supervisors shall notify the Chief Investigator, or his/her designee, of the circumstances surrounding any reported allegations or observed acts of discrimination, harassment or retaliation no later than the next business day.

(e) Bureau Managers and Supervisors shall inform the District Attorney Equal Opportunity Liaisons to discuss prompt and appropriate action, and to properly document any and all action taken.

Any employee who believes that she or he has been subjected to discrimination, harassment, sexual harassment, or retaliation or who is aware of an occurrence of discrimination, harassment, sexual harassment, or retaliation, has an obligation and a duty to report the potential policy violation to their supervisor, manager, or a County Equal Opportunity representative so appropriate corrective action may be taken. Such individuals are also encouraged to confront the person who allegedly is doing the harassment, unless the employee feels such confrontation could lead to retaliation or greater harassment.

306.5.3 SUPERVISOR'S ROLE

Supervisors and managers shall be aware of the following:

(a) Behavior of supervisors and managers should represent the values of the Bureau and professional standards.

(b) False or mistaken accusations of discrimination, harassment, or retaliation can have negative effects on the careers of innocent members.

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

306.5.4 QUESTIONS OR CLARIFICATION

Members with questions regarding discrimination or sexual harassment are encouraged to contact a supervisor, the Chief Investigator, the Captain, any of the assigned EO Liaisons, the County's Equal Opportunity Division, the Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing (Government Code §12950).

306.6 INVESTIGATION OF COMPLAINTS

All complaints of discrimination, harassment, and retaliation shall be fully documented and promptly and thoroughly investigated. All Bureau employees participating in the investigation should be protected against retaliation, and the complaint and related investigation should be kept confidential to the extent possible.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

The District Attorney Equal Opportunity Liaisons are responsible for investigating complaints of discrimination, harassment and retaliation on behalf of the County's Equal Opportunity Division. Nothing in this policy will prevent the Bureau from conducting a concurrent or subsequent internal investigation pursuant to Bureau Policy 340. The EO Liaisons will work with the Equal Opportunity Division to thoroughly and promptly investigate the allegations, and with those conducting any concurrent or subsequent internal investigation.

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

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

Employees who believe they have been discriminated, harassed or retaliated against are encouraged to follow the chain of command, but may also file a complaint directly with:

- The Santa Clara County Equal Opportunity Division (EOD), 2310 N. First Street, Suite 101, San Jose, CA 95131, 408-299-5865
- The Equal Employment Opportunity Commission, 96 N. Third Street, Suite 250, San Jose, CA 95112, 408-291-7282 or 1-800-669-4000
- The California Department of Fair Employment and Housing, Bay Area Regional Office 39141 Civic Center Drive, Suite 250, Fremont, CA 94538, 1-800-884-1684
- Their association or union representative
- A private attorney

Employees who file complaints are encouraged to follow the EOD Guidelines for Filing a Complaint. Employees are also encouraged to use the Discrimination/Harassment Complaint Form when filing such a complaint.

306.6.1 SUPERVISOR RESOLUTION

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

306.6.2 FORMAL INVESTIGATION

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

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

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

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

306.6.3 ALTERNATIVE COMPLAINT PROCESS

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

306.7 DOCUMENTATION OF COMPLAINTS

All complaints or allegations shall be thoroughly documented in a manner consistent with EOD policies and practices.

All Bureau employees who are the subject of such an investigation and are protected by the Police Officer Bill of Rights (POBOR) will be afforded these rights. In the event a complaint has been sustained, the Chief Investigator may open a separate internal investigation consistent with Policy 340 prior to imposing discipline.

306.7.1 NOTIFICATION OF DISPOSITION

Notification of the disposition of a complaint will follow established practices of the EOD. Whether a complaint is sustained or not sustained, the following notifications will be made:

(a) Letter of Findings from the EO Liaison in charge is sent to both the complainant and the accused.

(b) A Department Head Memo is prepared by the EOD Manager and sent to the District Attorney with a copy of the investigation.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

306.8 TRAINING

All Bureau employees are required to take the appropriate Sexual Harassment and Discrimination Prevention training provided by the Equal Opportunity Division.

306.8.1 STATE-REQUIRED TRAINING

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

(a) Supervisory employees shall receive two hours of classroom or other effective interactive training and education within six months of assuming a supervisory position.

(b) All investigators are required to attend the "Sexual Harassment and Discrimination Prevention Training for Mangers, Supervisors and Leads" within 6 months of hire and every 2 years.

If the required training is to be provided by DFEH online training courses, the Training Manager should ensure that employees are provided the link or website address to the training course (Government Code § 12950).

306.8.2 TRAINING RECORDS

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

306.9 WORKING CONDITIONS

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

306.10 REQUIRED POSTERS

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Recruitment and Selection

307.1 PURPOSE AND SCOPE

The employment policy of the District Attorney's Office shall provide equal opportunities for all applicants regardless of race, sexual orientation, age, pregnancy, religion, creed, color, national origin, ancestry, physical or mental disability, marital status, veteran status, or sex, and shall not show partiality or grant any special favors to any applicant, employee or group of employees except as allowed by law.

307.2 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 and the employment standards established by this Office and the County.

307.2.1 VETERAN'S PREFERENCE

Qualifying veterans of the armed forces of the United States shall receive a veteran's preference as applicable. Preference points shall be added after the applicant has received a passing score on an entrance exam and is qualified for placement on the employment list (Government Code § 18978).

307.2.2 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 Santa Clara County Human Resource Department maintains standards for all positions.

The California Commission on Peace Officer Standards and Training (POST) has developed a Job Dimensions list, which is used as a professional standard in background investigations.

The following standards have been adopted for public safety applicants:

307.3 SUMMARY OF POST BACKGROUND INVESTIGATION DIMENSIONS FOR PEACE OFFICERS

No amount of standard-setting will eliminate the need to make case-by-case judgments based on specific facts presented by each candidate's background. Rarely is one fact a sufficient basis for disqualifying an individual; rather, it is generally necessary to investigate the circumstances surrounding each fact in order to make an educated assessment of the candidate's suitability, taking into consideration such factors as:

- The patterns of past behavior and specific combinations of fact and circumstances
- The consequences if past undesirable behavior occurs again or becomes generally known

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

- The likelihood of recurrence of the undesirable behavior
- The relevance of the past behavior to the job demands and requirements
- The length of time between the particular undesirable act and the application for employment, with consideration given to the intervening behavior of the candidate, and
- The legal rights of the candidate

307.3.1 MORAL CHARACTER

(a) Integrity

1. Honesty
2. Impartiality
3. Trustworthiness
4. Protection of Confidential Information
5. Moral/Ethical Behavior

(b) Impulse Control/Attention to Safety

1. Safe Driving Practices
2. Attention to Safety
3. Impulse/Anger Control

(c) Substance Abuse and Other Risk-Taking Behavior

307.3.2 HANDLING STRESS AND ADVERSITY

(a) Stress Tolerance

1. Positive Attitude and Even Temper
2. Stress Tolerance and Recovery
3. Accepting Responsibility for Mistakes

(b) Confronting and Overcoming Problems, Obstacles, and Adversity

307.3.3 WORK HABITS

(a) Conscientiousness

1. Dependability/Reliability
2. Personal Accountability and Responsibility
3. Safeguarding and Maintaining Property, Equipment, and Belongings
4. Orderliness, Thoroughness, and Attention to Detail
5. Initiative and Drive
6. General Conscientiousness

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

307.3.4 INTERACTIONS WITH OTHERS

(a) Interpersonal Skills

1. Social Sensitivity
2. Social Interest and Concern
3. Tolerance
4. Social Self-Confidence/Persuasiveness
5. Teamwork

307.3.5 INTELLECTUALLY-BASED ABILITIES

(a) Decision-Making and Judgment

1. Situation/Problem Analysis
2. Adherence to Policies and Regulations
3. Response Appropriateness
4. Response Assessment

(b) Learning Ability

(c) Communication Skills

1. Oral Communication
2. Written Communication

307.3.6 MORAL CHARACTER

1. **Integrity**. This involves maintaining high standards of personal conduct. It consists of attributes such as honesty, impartiality, trustworthiness, and abiding by laws, regulations, and procedures. It includes:

- Not abusing the system nor using one's position for personal gain; not yielding to temptations of bribes, favors, gratuities, or payoffs
- Not bending rules or otherwise trying to beat the system
- Not sharing or releasing confidential information
- Not engaging in illegal or immoral activities— either on or off the job
- Honest and impartial in dealings with others both in and outside the agency
- Not condoning or ignoring unethical/illegal conduct in others
- Not having a history of excessive force or misconduct complaints
- Truthful and honest sworn testimony, affidavits, and in all dealings with others

INDICATORS:

- Dishonesty in the hiring process, including:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

  - Deliberately misstating or misrepresenting identifying information or qualifications, whether orally or in writing
  - Misleading any person involved in the pre-employment screening process by misstating, misrepresenting, or failing to completely answer questions
  - Inaccuracies or deliberate omissions in applications, Personal History Statements, or any other documentation required as part of the pre-employment process used to help determine the candidate's suitability for employment
  - Any other act of deceit or deception
- Lying about past mistakes or oversights
- Fraudulently reporting or other abuses/misuses of employer leave policies (e.g., sick leave, vacation, bereavement leave)
- Abuses privileges and benefits of the job (e.g., overtime, use of supplies, equipment, internet access)
- Involved in the sale or distribution of illegal drugs
- Engages in inappropriate sexual activity (e.g., prostitutes, sex with minors, etc.)
- Evidence of perjury, signing of false affidavits in any criminal or civil proceeding, falsification of official reports including statements, narratives, property documents, evidentiary documents, giving incomplete or misleading information to supervisors
- Cheating, plagiarism, or other forms of academic dishonesty
- Attempting to induce others to give false information
- Association with those who commit crimes or otherwise demonstrate unethical/ immoral behavior
- Commits illegal or immoral activities that would be offensive to contemporary community standards of propriety
- Commits crimes against employers- arson, burglary, stealing (goods, money, or services)- which would amount to a felony
- Conviction(s) of any criminal offense classified as a misdemeanor under California Law, especially as an adult
- Having an outstanding warrant of arrest at time of application for job or throughout the hiring process
- Admission of having committed any act amounting to a felony under California Law, as an adult
- Admission 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, indecent exposure (except acts of consensual unlawful intercourse accomplished between two minors, unless more than four years difference in age existed at the time of the acts)
- Actions resulting in civil lawsuits against the candidate or his/her employer

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

- Committing acts that, had they been detected, would have resulted in prosecution and conviction and would have automatically disqualified the candidate
- Information proving a history of excessive force
- Information proving a history of misconduct complaints

While Employed in a Position of Public Trust:

- Conviction of any offense classified as a misdemeanor under California Law while employed as a peace officer (including military police)
- Admission of administrative conviction of any act while employed as a peace officer, including military police, involving lying, falsification of any official report or document, or theft
- Admission of administrative conviction or criminal conviction for failure to properly report witnessed criminal conduct committed by another law enforcement officer
- Accepting or soliciting any bribe or gratuity while in a position of public trust
- Embezzlement of money, goods or services while in a position of trust

2**. Impulse Control/Attention to Safety.** Avoiding impulsive and/or unnecessarily risky behavior to ensure the safety of oneself and others. It includes thinking before acting, taking proper precautions, keeping one's impetuous, knee-jerk reactions in check, and behaving in conscious regard for the larger situation at hand.

INDICATORS:

Safe Driving Practices

- Receipt of multiple moving violations (especially for potential life-threatening acts such as reckless driving, speed contest, etc.)
- Driver in multiple chargeable collisions. Numerous moving and non-moving violations, at-fault accidents
- Instances of road rage, driving recklessly and/or at excessive speeds

Attention to Safety

- Fails to take proper precautions to minimize risks associated with hazardous activities
- Takes unnecessary, foolish risks
- Disregards risk to self or others

Impulse/Anger Control

- Overreacts when challenged or criticized
- Unnecessarily confrontational in interactions with others
- Reacts childishly or with anger to criticism or disappointment
- Disciplined by any employer as an adult for fighting in the workplace

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

- Admission of any act of domestic violence as an adult
- Use of verbal or physical abuse or violence toward others
- Violent assault upon another, including spousal battery, sexual battery, or other acts of violence
- Admission 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
- Instances of reprimands, counseling, terminations, suspensions for poor behavioral control at work

3. **Substance Abuse and Other Risk-Taking Behavior.** This involves engaging in behavior that is inappropriate, self-damaging, and with potential adverse impact on the agency, and includes alcohol and drug abuse, domestic violence, sale of drugs and gambling.

INDICATORS:

- Illegal use or possession of a controlled substance while employed in any law enforcement capacity, including military police
- Drug test of the candidate, during the course of the hiring process, where illegal controlled substances are detected
- Illegal or unauthorized use of prescription medications
- Illegal use or possession of a controlled substance while a student enrolled in college-accredited courses related to the criminal justice field
- Manufacturing, cultivating, transporting, brokering, or selling any controlled substances
- Record of alcohol or drug-related incidents, including driving under the influence or such charge reduced to reckless driving, violation of open container laws or transporting open containers
- History of other problems associated with drug and/or alcohol use
- Perpetrator of domestic violence incidents
- Missed work due to alcohol use
- Alcohol use while on the job (where prohibited)
- Arriving at work intoxicated/smelling of alcohol or hung-over
- Gambling to the point of causing harm to oneself

307.3.7 HANDLING STRESS AND ADVERSITY

1. Stress Tolerance. Maintaining composure, particularly during time-critical emergency events and other stressful situations, weathering negative events and circumstances and maintaining an even temperament and positive attitude. Accepting criticism without becoming overly defensive or allowing it to hamper behavior or job performance.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

INDICATORS:

Attitude and Temperament

- Worries excessively; enters into new situations with considerable apprehension
- Overly suspicious and distrusting in dealing with others
- Argumentative, antagonistic towards others, bully
- Commonly behaves with hostility and anger
- Behavior-impairing mood swings
- Badmouths employers and others
- Unnecessarily confrontational and aggressive
- Disrupts/undermines authority (fails to successfully carry out directives; shows signs of contempt by eye rolling, excessive exhaling, etc.)

Stress Tolerance and Recovery

- Comes "unglued," freezes, or otherwise performs ineffectively when feeling overloaded or stressed
- Uncontrollable reaction to verbal abuse from others
- Reacts childishly or with anger to criticism or disappointment
- Allows personal problems and stressors to bleed into behavior on the job
- Refuses to accept responsibility for mistakes or improper actions

Accepting Responsibility for Mistakes

- Does not accept responsibility for actions and mistakes; routinely makes excuses or blames others for own shortcomings
- Becomes excessively defensive or otherwise overreacts when challenged or criticized
- Minimizes the importance of past mistakes or errors

2. Confronting and Overcoming Problems, Obstacles, and Adversity. This involves willingness and persistence in confronting problems and personal adversity. It includes taking control of situations, as necessary and demonstrating hustle and drive in reaching goals.

INDICATORS:

- Displays submissiveness and insecurity when confronted with challenges, threatening situations, or difficult problems
- Fails to take action or change behavior to resolve problems or mistakes
- Multiple personal bankruptcies, having current financial obligations for which legal obligations have not been satisfied; or any other flagrant history of financial instability
- Allows debts to mount; evades creditors, collection agencies, etc.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

- Past due accounts, discharged debts, late payments, collection accounts, civil judgments, and/or bankruptcy
- Fails to meet obligations (for example, auto insurance, auto registration, selective service registration, IRS requirements, child support obligations)
- Fails to exercise fiscal responsibility commensurate with income

307.3.8 WORK HABITS

1. **Conscientiousness.** Diligent, reliable, conscientious work patterns; performing in a timely, logical manner in accordance with rules, regulations, and organizational policies.

INDICATORS:

Dependability/Reliability

- Fails to meet commitments to work, school, family, volunteer, or community activities
- Poor attendance; takes time off from work unnecessarily (e.g., on/near weekends)
- History of being late to work, meetings, appointments
- Misses scheduled appointment during the process without prior permission
- Excessively long breaks, returning from lunch late, leaving work early
- Fails to comply with instructions or orders
- Fails to properly prepare for meetings

Personal Accountability and Responsibility

- Is not accountable for his/her performance
- Blames others for improper actions
- Fails to analyze prior mistakes or problems to improve performance
- Disciplined by any employer (including military) for gross insubordination, dereliction of duty, or persistent failure to follow established policies and regulations
- History of involuntary dismissal (for any reason other than lay-off)
- Conducts unauthorized personal business while on duty
- Failure to exercise fiscal responsibility commensurate with income
- Past due accounts, discharged debts, late payments, collection accounts, civil judgments, and/or bankruptcy
- History of flagrant financial instability, such as multiple personal bankruptcies, financial obligations for which legal judgments have not been satisfied, etc.
- Failure to meet obligations (for example, auto insurance, auto registration, selective service registration, IRS requirements, child support obligations)

Safeguarding and Maintaining Property, Equipment, and Belongings

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

- Fails to safeguard property entrusted to him/her
- Fails to maintain equipment
- Loses valuable information

Orderliness, Thoroughness, and Attention to Detail

- Pattern of disorganization in work, school, etc.
- Fails to attend to details (e.g., typos, missing/incorrect information)
- Fails to attend to all aspects of projects and activities to be sure they are completed
- Motor vehicle collisions due to inattentiveness
- Overlooks or misinterprets instructions on PHS and other documents
- Fails to properly recall instructions/directions provided previously
- Cannot properly recall pertinent/important details related to personal history
- Problems at school, work, driving due to poor attention/vigilance

Initiative and Drive

- Gives up in the face of long hours or other difficult working conditions
- Fails to keep current on new rules, procedures, etc.
- Does not initiate proper action unless given explicit instructions
- Fails to ensure that the job is performed correctly
- Procrastinates
- Watches the clock rather than attending to task accomplishment
- Gives up or cuts corners when faced with obstacles
- Performs job duties in a perfunctory manner, expending minimum amount of effort

General Conscientiousness

- Resigns without notice (except where the presence of a hostile work environment is alleged)
- Resigns in lieu of termination (except where a hostile work environment is alleged)
- Holds multiple paid positions with different employers within a relatively brief period of time (excluding military, and students who attend school away from their permanent legal residence)
- Reprimanded or counseled for poor work performance (including military service)
- Terminated or suspended from work (other than honorable discharge from military)
- Released from probationary employment status (except for reduction in force)
- Poor record of academic achievement

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

307.3.9 INTERACTIONS WITH OTHERS

1. **Interpersonal Skills.** This involves interacting with others in a tactful and respectful manner, and showing sensitivity, concern, tolerance, and interpersonal effectiveness in one's daily interactions.

INDICATORS:

Social Sensitivity (the ability to "read" people and awareness of the impact of one's own words and behavior on others)

- Provokes others by officious bearing, gratuitous verbal challenge, or through physical contact
- Antagonizes others
- Uses profanity and other inappropriate language
- Incidents of domestic violence, use of verbal or physical abuse, or violence toward others
- Use of physical force to resolve disputes
- Demonstrated overreaction to criticism

Social Interest and Concern (interest and concern for others)

- Baits people; takes personal offense at comments, insults, or criticism
- Evidence of inability to get along with others in work or personal life
- Makes rude and/or condescending remarks to or about others
- Source of customer/citizen complaints
- Argumentative, loner, bully

Tolerance (lack of tact and impartiality in treating all members of society)

- Makes hasty, biased judgments based on physical appearance, race, gender, or other group membership characteristics
- Refuses to listen to explanations of others
- Inability to recognize how one's own emotions/behavior affect situations and others
- 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
- During the hiring/background process, uttering any epithet derogatory of another person's race, religion, gender, national origin, or sexual orientation
- Makes inappropriate comments to or about others regarding personal characteristics as well as derogatory comments about specific groups (racial, gender, sexual orientation, proficiency with the English language, immigrant status, HIV/AIDS infection, religion, transgender, social status)

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

- Evidence of the use of derogatory stereotypes in jokes or daily language
- Sexual harassment/hostile work environment incidents

Social Self Confidence/Persuasiveness (inability and discomfort approaching individuals, and in confronting and reducing interpersonal conflict)

- Avoids confrontations at all costs
- Intimidated by others
- Minimizes or avoids interactions with others
- Escalates situations by overreacting
- Fails to diplomatically offer ideas or persuade others to adopt desired course of action
- Disruptive/challenging to authority
- Use of harassment, threats, or intimidation to gain an advantage
- Succumbs to peer pressure

Teamwork (inability to work effectively as a member of a team)

- Resents successes and accomplishments of team members
- Does not assist or request assistance from team members
- Alienates colleagues by dominating interactions and activities
- Gossips, criticizes, and back stabs colleagues and coworkers
- Fails to achieve or maintain trust with peers, supervisors, and clients

307.3.10 INTELLECTUALLY-BASED ABILITIES

1. **Decision-Making and Judgment.** The ability to make timely, sound decisions, specially in dangerous, pressure-filled situations, and/or where information is incomplete and/or conflicting. Able to size up situations quickly to determine appropriate action. It also involves the ability to sift through information to glean that which is important and, once identified, to use that information effectively.

INDICATORS:

Situation/Problem Analysis

- Unable to step into a situation and figure out what probably led up to that point in time, as well as what is likely to happen as the situation unfolds
- Tunnel vision; does not see the big picture when analyzing information
- Fails to identify patterns and implications when analyzing information
- Failure to consider available information or appropriate options
- Naive, overly trusting, easily duped

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

- Spends too much time on minor issues; unable to set priorities

Adherence to Policies and Regulations

- Failure to consider organizational policies and regulations when making decisions
- Fails to use appropriate judgment and discretion in applying regulations and policies; cannot distinguish between the letter and the spirit of rules and laws
- Rigid adherence to rules without consideration of alternative information; needs directives to be in black and white

Response Appropriateness

- Poor judgment in knowing when to confront— and when to back away from—potentially volatile situations
- Overbearing approach to resolving problems
- Escalates problems by under or over-reacting
- Uses force when unnecessary or inappropriate
- Indecision or poor decisions when options are not clear-cut
- Paralyzed by uncertainty or ambiguity; insecure about making a decision

Response Assessment

- Unable or unwilling to make "midcourse corrections" on initial course of action when presented with new information or when circumstances change
- Fails to apply lessons learned from past mistakes

2. **Learning Ability.** Ability to comprehend and retain a good deal of information, to recall factual information, and to apply what is learned.

INDICATORS:

- Dismissal or probation from school, or other indication(s) of poor academic performance
- Dismissal from a POST-certified Basic Academy, and no subsequent effort to improve in the deficient areas
- Pattern of making repeated mistakes when faced with similar problems and negative situations, in and outside of learning environments

3. **Communication Skills .** Ability to make one's self-understood, both orally and in writing.

INDICATORS:

Oral Communication

- Speech is difficult to understand
- Responses to questions are rambling, confused, and/or disorganized

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

- Expresses thoughts and emotions inappropriately through facial gesture and body language
- Discussions of topics are incomplete, inappropriate, and/or filled with a lot of unnecessary/irrelevant details
- Fails to understand both explicit and implied messages and responds accordingly
- Does not listen well, thereby missing the point of what others are saying

Written Communication

- Illegible handwriting
- Poor grammar, punctuation, and/or spelling
- Written communications are incomplete, disorganized, unclear, and/or inaccurate
- Written responses to Personal History Statement items are inappropriate, incomplete, or otherwise difficult to decipher

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Chapter 4 - General Operations

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Arrest Policy

400.1 PURPOSE AND SCOPE

District Attorney investigators should be aware that making an arrest can constitute one of the more challenging aspects of law enforcement. For this reason, investigators should make all reasonable attempts to ensure that arrests are carried out by using sound planning, safe tactics and by utilizing appropriate communication and notification.

Arrests made by Bureau of Investigation Criminal Investigators will be in accordance with the laws of arrest of the State of California.

400.2 PROCEDURE

400.2.1 ARREST WARRANTS

Whenever an investigator is "walking through" a complaint for the purpose of personally receiving an Arrest Warrant from the Court Clerk, he/she will ensure that the original warrant is taken to the Office of the Sheriff's Records Division for processing. The investigator will request that the Arrest Warrant be activated in the CJIC system and the appropriate entries made in the Wanted Persons System (WPS).

Prior to attempting service of an Arrest Warrant, the investigator will contact the Office of the Sheriff's Records Division and request a hand check to verify that the warrant is still valid. If the subject of the Arrest Warrant is located and taken into custody, the investigator will call the Office of the Sheriff's Records Division, confirm the warrant and request that an abstract be sent to the destination booking facility.

Arrest Warrants obtained by personnel of the Bureau of Investigation should be served as expeditiously as possible. All steps taken to locate the suspect and serve the warrant shall be documented in the case file and CJIC to memorialize the investigator's due diligence.

When serving Arrest Warrants, it is the responsibility of the investigator to determine the appropriate manner for the service of the warrant. This may include allowing self-surrender to the Office of the Sheriff, working with the Office of Pretrial Services for potential OR release, or making a physical arrest and booking.

400.2.2 ON-VIEW ARRESTS

Whenever an investigator makes an On-View Arrest, a complete investigative report will be completed using a new case number. This report will serve as the basis for the criminal complaint. The report must be completed in a timely manner to ensure that all legal time limits are met. In On-View Arrest situations, the investigator is responsible to ensure that evidence is gathered; witnesses are located and identified; statements are taken; and reports completed as necessary. It is the responsibility of the arresting investigator to confer with the issuing deputy district attorney and ensure that the criminal complaint is filed.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

400.3 PLANNING

There should be at least two investigators assigned to the arrest of a suspect except in cases of a self-surrender that occurs at a predetermined law enforcement facility. Prior to an arrest, the investigator should conduct a threat assessment of the suspect by reviewing the suspect's prior criminal history, prior acts of violence, use or possession of weapons, use of narcotics, mental health history and other outstanding warrants or in-progress investigations.

400.3.1 OPERATIONAL PLAN FOR PLANNED ARRESTS

For planned arrests, investigators shall complete a BOI Operational Plan identifying, at a minimum, what was learned in the suspect(s) threat assessment, known associates and their potential threats, assigned personnel and equipment, radio channel(s) to be used, local law enforcement notifications, tactical plan for the arrest and an emergency plan for injuries. Appropriate diagrams, photos and maps should also be included. All Operational Plans require lieutenant or higher approval.

Investigators will have the proper equipment available to them prior to attempting an arrest. This includes a firearm, handcuffs, ASP Baton, Pepper Spray, tactical vest, radio and official identification.

400.3.2 RADIO COMMUNICATION

Investigators involved in arrest situations must make provisions to ensure that radio communications are properly used and maintained. County Communications dispatchers must be made aware of a possible arrest within Santa Clara County. Similarly, dispatchers are to be made aware that an arrest has occurred, the destination to where the arrestee is to be taken, and subsequent arrival at the destination.

Planned arrests made outside of Santa Clara County require local law enforcement agency notification to both the law enforcement agency supervisorial personnel and the communications center which provides dispatch services for that agency. Notifications should also be made when the arrest has occurred and upon leaving the jurisdiction.

In the event of an arrest, the transporting investigator will provide his/her vehicle mileage between the arrest location and destination to County Communications either over the radio or by telephone.

400.4 CHILD WELFARE

In cases where the following takes place, investigators will adhere to guidelines set forth under subsection (c) 1- 6.

(a) The custodial parent cannot continue to care for his/her child because that parent is being arrested, or

(b) The custodial parent is so severely ill as to require emergency medical care.

(c) However, if the investigator knows or reasonably suspects that the child has been the victim of child abuse or neglect perpetrated by the parent(s) or a legal guardian, guidelines 1-5 do not apply, and the investigator should adhere to guideline 6.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

1. The investigator shall ascertain the parent's preferences concerning arrangements for the care of the child. The investigator shall take reasonable steps to facilitate the custodial parent's decision to leave the child with a relative or family friend. In the event that the parent's expressed choice of care arrangements cannot be fulfilled for any of the reasons given in Step 5 below, then the investigator shall take reasonable steps to facilitate a secondary choice.
2. Investigators will document the parent's childcare arrangement on a from the original event. If there is no law violation that requires a (such as a parental illness situation), an entitled "Parent's Child Care Arrangements" will be completed. The documentation on the or shall include basic identification and residence information of the minor child. The report will also document the person accepting custody of the minor at the request of the custodial parent in those situations where the parent's child care arrangements involve having another adult act as caretaker for the minor child.
3. Whenever circumstances allow, investigators will attempt to obtain the signature of the custodial parent acknowledging and authorizing the new Parent/Legal Guardian Child Care Arrangement. Such authorization should be documented on either the Incident Report or Supplemental Incident Report.
4. The investigator's lieutenant will review and approve the parent's childcare arrangements prior to the investigator leaving the scene.
5. If the circumstances dictate that the parent's request(s) for placement cannot or should not be fulfilled because the proposed caretaker cannot be located or is unwilling to take custody of the child, the caretaker is obviously intoxicated or otherwise incapable of caring for a minor, or other circumstances known to the officer indicate that the parent's child care arrangements would pose an immediate threat to the child's health or safety, then the officer should follow the Joint Response Protocol as identified in PPM 170.
6. If investigators at the scene determine that there is reasonable cause to believe that the minor is, or that there is a substantial risk that the child will become, a victim of child abuse or neglect perpetrated by the parent(s) or a legal guardian, and in addition there is an immediate danger of physical or sexual abuse to the child or other immediate threat to the child's health or safety, then the investigator should follow the Joint Response Protocol specified in PPM 170. In these instances, the investigators at the scene shall not allow the minor children to be released to relatives, friends or other persons suggested by the parent or guardian who is the subject of the investigation.

When transporting children, it is preferred that two investigators are assigned, and proper radio procedures observed to include providing beginning and ending vehicle mileage to County Communications. Appropriate child safety seats and seatbelts will be used while transporting minor children.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

400.5 OUT OF COUNTY ARRESTS

When making out of county arrests, the investigator will notify local law enforcement agencies of the location and circumstances and request assistance if necessary.

Pursuant to Penal Code Sections 821 and 822, when an arrest is effected out of county, the defendant must be informed in writing of his/her right to be taken before a magistrate in the county where the arrest is made. If the defendant does not waive his/her right to be taken before a magistrate of that county, he/she must be booked into the jail of the county in which the arrest is made.

Should the defendant/arrestee waive his/her right to appear before a magistrate in the county where the arrest occurred, the defendant may be returned to Santa Clara County for booking.

400.6 ARREST CONTROL TRAINING

The Bureau of Investigation will conduct arrest control training as part of the California Commission on Peace Officer Standards and Training (POST) perishable skills training requirements. Attendance is mandatory.

Should an investigator be unable to attend or participate in the arrest control training, due to physical disabilities or concerns, a memo should be directed to his or her supervisor detailing the reason(s) for non-attendance. The supervisor should ensure that the investigator be assigned to non-arrest duty tasks until the investigator is once again able to attend arrest control training.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Use of Force

401.1 PURPOSE AND SCOPE

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

In addition to those methods, techniques, and tools set forth below, the guidelines for the reasonable application of force contained in this policy shall apply to all policies addressing the potential use of force, including but not limited to the Control Devices and Techniques as found within the Bureau of Investigations' Policy and Procedures Manual (PPM) sections 400, 402, 403 and 405 and incorporated by reference in section 401.3 of this document.

401.1.1 DEFINITIONS

Definitions related to this policy include:

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

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

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

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

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

401.2 POLICY

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

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

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

401.2.1 DUTY TO INTERCEDE AND REPORT
Any investigator present and observing another law enforcement officer or an employee using force that is clearly beyond that which is necessary, as determined by an objectively reasonable investigator under the circumstances, shall, when in a position to do so, intercede to prevent the use of unreasonable force. Any investigator who observes a law enforcement officer or an employee use force that potentially exceeds what the investigator reasonably believes to be necessary shall promptly report these observations to a supervisor as soon as feasible (Government Code § 7286(b)).

401.2.2 FAIR AND UNBIASED USE OF FORCE
Investigators are expected to carry out their duties, including the use of force, in a manner that is fair and unbiased (Government Code § 7286(b)).

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

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

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

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

It is also recognized that circumstances may arise in which investigators reasonably believe that it would be impractical or ineffective to use any of the approved tools, weapons, or methods provided by the Bureau. The approved methods and devices for this Bureau are set forth in PPM 400 Arrest Policy, PPM 402 Handcuffing and Restraint, PPM 403 Control Devices (Baton and Oleoresin Capsicum OC Spray) and Techniques, and PPM 405 Firearms. Investigators may find it more

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

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

401.3.1 USE OF FORCE TO EFFECT AN ARREST

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

401.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

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

(a) The apparent immediacy and severity of the threat to investigators or others (Penal Code § 835a).

(b) The conduct of the individual being confronted, as reasonably perceived by the investigator at the time (Penal Code § 835a).

(c) Investigator/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of investigators available vs. subjects).

(d) The conduct of the involved investigator leading up to the use of force (Penal Code § 835a).

(e) The effects of suspected drugs or alcohol.

(f) The individual's apparent mental state or capacity (Penal Code § 835a).

(g) The individual's apparent ability to understand and comply with investigator commands (Penal Code § 835a).

(h) Proximity of weapons or dangerous improvised devices.

(i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.

(j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).

(k) Seriousness of the suspected offense or reason for contact with the individual prior to and at the time force is used.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(l) Training and experience of the investigator.

(m) Potential for injury to investigators, suspects, bystanders, and others.

(n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the investigator.

(o) The risk and reasonably foreseeable consequences of escape.

(p) The apparent need for immediate control of the subject or a prompt resolution of the situation.

(q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the investigator or others.

(r) Prior contacts with the subject or awareness of any propensity for violence.

(s) Any other exigent circumstances.

401.3.3 PAIN COMPLIANCE TECHNIQUES

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

(a) The degree to which the application of the technique may be controlled given the level of resistance.

(b) Whether the person can comply with the direction or orders of the investigator.

(c) Whether the person has been given sufficient opportunity to comply.

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

401.3.4 ALTERNATIVE TACTICS - DE-ESCALATION

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

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

(b) Formulating a plan with responding investigators before entering an unstable situation that does not reasonably appear to require immediate intervention.

(c) Employing other tactics that do not unreasonably increase investigator jeopardy.

In addition, when reasonable, investigators should evaluate the totality of circumstances presented at the time in each situation and, when feasible, consider and utilize reasonably available alternative tactics and techniques that may persuade an individual to voluntarily comply or may mitigate the need to use a higher level of force to resolve the situation before applying force (Government Code § 7286(b)(1)). Such alternatives may include but are not limited to:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(a) Attempts to de-escalate a situation.

(b) If reasonably available, the use of crisis intervention techniques by properly trained personnel.

401.4 DEADLY FORCE APPLICATIONS

Where feasible, the investigator shall, prior to the use of deadly force, make reasonable efforts to identify him/herself as a peace officer and to warn that deadly force may be used, unless the investigator has objectively reasonable grounds to believe the person is aware of those facts (Penal Code § 835a(5)(c)(1)(B)).

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

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

(a) An investigator may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the investigator or another person.

(b) An investigator may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the investigator reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended.

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

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

401.4.1 SHOOTING AT OR FROM MOVING VEHICLES

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

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

401.4.2 DISPLAYING OF FIREARMS

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

(a) If the investigator does not perceive an imminent threat but reasonably believes that the potential for such threat exists (e.g., building search), firearms should generally be kept in the low-ready or other position not directed toward an individual.

(b) If the investigator reasonably believes that an imminent threat exists based on the totality of circumstances presented at the time (e.g., high-risk stop, tactical entry, armed encounter), firearms may be directed toward such imminent threat until the investigator no longer perceives such threat.

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

401.5 REPORTING THE USE OF FORCE

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

401.5.1 NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practical 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 investigator to conclude that the individual may have experienced more than momentary discomfort.

(c) The individual subjected to the force complained of injury or continuing pain.

(d) The individual indicates intent to pursue litigation.

(e) Any application of any control device.

(f) Any application of a restraint device other than handcuffs, shackles, or belly chains.

(g) The individual subjected to the force was rendered unconscious.

(h) An individual was struck or kicked.

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

401.5.2 REPORTING TO CALIFORNIA DEPARTMENT OF JUSTICE
Statistical data regarding all officer-involved shootings and incidents involving use of force resulting in serious bodily injury is to be reported to the California Department of Justice as required by Government Code § 12525.2.

401.6 MEDICAL CONSIDERATION

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

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

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

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

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

401.7 SUPERVISOR RESPONSIBILITY

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

(a) Obtain the basic facts from the involved investigators. Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.

(b) Ensure that any injured parties are examined and treated.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(c) When possible, separately obtain a recorded interview with the subject upon whom force was applied. If this interview is conducted without the person having voluntarily waived his/her *Miranda* rights, the following shall apply:

1. The content of the interview should not be summarized or included in any related criminal charges.
2. The fact that a recorded interview was conducted should be documented in a property or other report.
3. The recording of the interview should be distinctly marked for retention until all potential for civil litigation has expired.

(d) Once any initial medical assessment has been completed or first aid has been rendered, ensure that photographs have been taken of any areas involving visible injury or complaint of pain, as well as overall photographs of uninjured areas. These photographs should be retained until all potential for civil litigation has expired.

(e) Identify any witnesses not already included in related reports.

(f) Review and approve all related reports.

(g) Determine if there is any indication that the subject may pursue civil litigation.

1. If there is an indication of potential civil litigation, the supervisor should complete and route a notification of a potential claim through the appropriate channels.

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

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

401.7.1 LIEUTENANT RESPONSIBILITY

The Lieutenant 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.

401.8 TRAINING

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

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

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

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

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

401.9 USE OF FORCE ANALYSIS

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

(a) The identification of any trends in the use of force by members.

(b) Training needs recommendations.

(c) Equipment needs recommendations.

(d) Policy revision recommendations.

401.10 USE OF FORCE COMPLAINTS

The receipt, processing, and investigation of civilian complaints involving use of force incidents should be handled in accordance with PPM 304 - Personnel Complaints Policy (Government Code § 7286(b)). Any administrative investigation resulting from an investigator-involved incident shall be handled in accordance with PPM 404 - Investigator Involved Incidents and subject to Public Records Requests as set forth below in PPM 401.12.

401.11 POLICY REVIEW

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

401.12 PUBLIC RECORDS REQUESTS

Requests for public records involving an investigator's personnel records shall be processed in accordance with Penal Code § 832.7 and the Personnel Records, Personnel Complaints, and Records Maintenance and Release policies (Government Code § 7286(b)). As per PPM 304, the Office 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 agreement. All complaints will be courteously accepted by any Bureau member and promptly given to the appropriate supervisor. Individuals from the public may make complaints in any form, including in writing, by email, in person, or by telephone (PPM 304.3.2).

401.13 POLICY AVAILABILITY

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Handcuffing and Restraints

402.1 PURPOSE AND SCOPE

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

402.2 POLICY

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

402.3 USE OF RESTRAINTS

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

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

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

402.3.1 RESTRAINT OF DETAINEES

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

402.3.2 RESTRAINT OF PREGNANT PERSONS

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

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

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

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

402.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

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

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

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

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

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

402.5 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.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

402.6 APPLICATION OF LEG RESTRAINT DEVICES

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

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

(a) Whether the investigator or others could be exposed to injury due to the assaultive or resistant behavior of a person.

(b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting investigator while handcuffed, kicking at objects or investigators).

(c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

402.6.1 GUIDELINES FOR USE OF LEG RESTRAINTS

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

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

(b) Once applied, absent a medical or other emergency, restraints should remain in place until the investigator arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.

(c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.

(d) The restrained person should be continually monitored by an investigator while in the leg restraint. The investigator should ensure that the person does not roll onto and remain on his/her stomach.

(e) The investigator should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

(f) When transported by emergency medical services, the restrained person should be accompanied by an investigator when requested by medical personnel. The transporting investigator should describe to medical personnel any unusual behaviors or other circumstances the investigator reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

402.7 REQUIRED DOCUMENTATION

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

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

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

(a) The factors that led to the decision to use restraints.

(b) Supervisor notification and approval of restraint use.

(c) The types of restraint used.

(d) The amount of time the person was restrained.

(e) How the person was transported and the position of the person during transport.

(f) Observations of the person's behavior and any signs of physiological problems.

(g) Any known or suspected drug use or other medical problems.

402.8 TRAINING

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

(a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Bureau.

(b) Response to complaints of pain by restrained persons.

(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.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Control Devices and Techniques

403.1 PURPOSE AND SCOPE

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

403.2 POLICY

In order to control subjects who are violent or who demonstrate the intent to be violent, the Santa Clara County District Attorney's Office, Bureau of Investigation authorizes investigators to use control devices in accordance with the guidelines in this policy and the Use of Force Policy. (PPM 401).

403.3 ISSUING, CARRYING AND USING CONTROL DEVICES

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

Only investigators 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, investigators should carefully consider potential impact areas in order to minimize injuries and unintentional targets.

403.4 RESPONSIBILITIES

403.4.1 LIEUTENANT RESPONSIBILITIES

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

403.4.2 RANGEMASTER RESPONSIBILITIES

The Training Manager 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 Training Manager or the designated instructor for a particular control device. The inspection shall be documented.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

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

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

403.5 WHEN DEVICES MAY BE USED
When a decision has been made to restrain, repel, or arrest a violent or threatening suspect, an approved control device may only be used when its use appears reasonable under the circumstances and pursuant to the Use of Force Policy.

403.6 REVIEW, INSPECTION, AND APPROVAL
Every control device will be periodically inspected by the designated instructor for a particular control device.

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

(a) Proficiency training shall be monitored and documented by a certified, control-device weapons or tactics instructor.

(b) All training and proficiency for control devices will be documented in the investigator's training file.

(c) Investigators who fail to demonstrate proficiency with the control device or knowledge of this agency's Use of Force Policy will be provided remedial training. If an investigator cannot demonstrate proficiency with a control device or knowledge of this agency's Use of Force Policy after remedial training, the investigator will be restricted from carrying the control device and may be subject to discipline.

403.8 BATON GUIDELINES
The Bureau approved impact weapon is authorized for use in accordance with California Penal Code Section 835a which states:

"Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to affect the 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 efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

such officer be deemed an aggressor or lose his right to self-defense by use of reasonable force to affect the arrest or to prevent escape or to overcome resistance."

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

403.9 CARRYING OF AN IMPACT WEAPON

Plainclothes personnel may carry the approved impact weapon as authorized, consistent with the needs of their assignment or at the direction of their supervisor. In any event, investigators shall have their impact weapon immediately available during any field, arrest, or Duty Officer situation where suspects are likely to be encountered or use of force is reasonably anticipated due to the environment or the nature of the enforcement action. These events shall include execution of search warrants, arrest warrants, and responses to confrontations as a Duty Officer.

403.10 REQUIRED INSTRUCTION FOR USE

All personnel authorized to carry an impact weapon, shall complete the required course of instruction prior to possessing and using the impact weapon.

403.11 TREATMENT FOR IMPACT WEAPON INJURIES

Persons who have been injured by the use of an impact weapon should be promptly provided with the proper first-aid to those affected areas. Those persons who complain of severe pain or those that exhibit obvious severe injuries (e.g. broken bone(s), laceration(s), head or other severe contusions) shall be afforded a medical examination by competent medical personnel. In such circumstances, a medical release shall be sought prior to booking.

403.12 REPORT OF USE

All uses of an impact weapon shall comply with Use of Force Policy including notification of use of force to their/a supervisor and documentation of use of force.

403.13 CHEMICAL AGENTS SPRAY GUIDELINES

Only authorized personnel may possess and maintain Bureau issued oleoresin capsicum spray (OC). Chemical agents are weapons used to minimize the potential for injury to Bureau of Investigation personnel, offenders, or other persons. They should be used only in situations where such force reasonably appears justified and necessary, in accordance with California Penal Code Section 835a.

403.13.1 REQUIRED INSTRUCTION FOR USE

All personnel authorized to carry oleoresin capsicum spray, shall complete the required course of instruction prior to possessing and using the oleoresin capsicum spray.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

403.13.2 OLEORESIN CAPSICUM (OC) SPRAY 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.

403.13.3 OC SPRAY
Plainclothes personnel may carry the oleoresin capsicum spray as authorized, consistent with the needs of their assignment or at the direction of their supervisor. In any event, investigators shall have their oleoresin capsicum spray immediately available during any field or arrest situation where suspects are likely to be encountered.

403.13.4 CIVILIAN PERSONNEL USE OF OLEORESIN CAPSICUM SPRAY
When oleoresin capsicum spray is used by a civilian employee, the employee should retreat to a safe location and notify the local police agency, requesting assistance if necessary. The employee will notify his/her supervisor of the incident as soon as possible.

When oleoresin capsicum spray is used on a vicious animal, the employee should retreat to a safe location, request appropriate assistance if necessary, and notify his/her supervisor of the incident as soon as possible.

Civilian personnel using oleoresin capsicum spray in the course of their duties will report such incident on a memorandum directed to the Chief Investigator through the chain of command by the end of shift.

403.13.5 TREATMENT FOR OC SPRAY EXPOSURE
Persons who have been sprayed with or otherwise affected by the use of OC spray, should be promptly provided with the proper solution to cleanse the affected areas. Those persons who complain of further severe effects shall be afforded a medical examination by competent medical personnel. In such circumstances, a medical release shall be sought prior to booking.

403.14 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES
All uses of an OC spray shall comply with the Use of Force Policy including notification of use of force to their/a supervisor and documentation of use of force.

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Investigator-Involved Incidents

404.1 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/investigator-involved shooting or dies as a result of other action of an investigator as defined by the Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines (hereafter referred to as "The Guidelines"). The Guidelines define an Officer-Involved Incident as follows:

(a) Any incident in which a peace officer or custodial officer (both herein referred to as "Officer"), acting under color of authority is directly involved in the following:

1. Any discharge of a firearm by an Officer which proximately causes the death of, or injury to another.
2. An intentional use of any other deadly or dangerous weapon by an Officer which proximately causes the death of, or injury likely to produce the death to another.
3. An intentional act on the part of an Officer which proximately causes the death of, or injury likely to produce the death of another.
4. Any death of a person who is in custody, or under Officer control.

    (a) Excluded from mandatory protocol investigations are post-booking deaths of prisoners, which occur in jails, hospitals, or other facilities, while the prisoner is under the custody and care of a Law Enforcement Agency (LEA) medical care provider for diagnosed diseases or conditions which have been known and monitored and/or treated by the LEA's medical care provider prior to death, but only when the deaths were medically expected and when custodial suicide, trauma, accident, or use of intoxicants was not involved.

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

For clarification, the term "Officer Involved Incident" is synonymous with "Investigator Involved Incident" for purposes of this policy.

404.2 POLICY

The policy of the Santa Clara County District Attorney's Office, Bureau of Investigation is to ensure that officer-involved shootings and deaths are investigated in a thorough, fair and impartial manner. This Bureau conforms to the Santa Clara County Police Chief's Association Officer-Involved Incident Guidelines for the investigation of officer/deputy/investigator involved incidents that occur in Santa Clara County - See attachment: PPM 404 Officer Involved Incident Guidelines 2016.pdf .

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

404.3 TYPES OF INVESTIGATIONS

Investigator-involved incidents involve several separate investigations. The investigations may include:

(a) A criminal investigation of the incident by the Incident Investigative Team, which is generally comprised of investigators from the agency having jurisdiction where the incident occurred (Primary Agency) and investigators from another County law enforcement agency. The Incident Investigative Team may relinquish its criminal investigation to an outside agency with the approval of the Case Management Team.

(b) A criminal investigation of the involved investigator(s) conducted by an outside agency.

(c) A civil investigation to determine potential liability conducted by the investigator's County Counsel representative.

(d) An administrative investigation conducted by the involved investigator's agency, to determine if there were any violations of Office or Bureau policy.

404.4 JURISDICTION

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 investigator(s). The following scenarios outline the jurisdictional responsibilities for investigating officer-involved shootings and deaths.

404.4.1 INVESTIGATOR-INVOLVED INCIDENTS

Investigator-involved incidents are investigated by the Incident Investigative Team, which is generally comprised of investigators from the jurisdiction where the incident occurred and investigators from another County law enforcement agency as approved by the primary agency's Chief, Sheriff or designated command staff.

404.4.2 CRIMINAL INVESTIGATION OF OFFICER ACTIONS

The control of the criminal investigation into the involved investigator's conduct during the incident will be in accordance with the Santa Clara County Police Chief's Association Officer-Involved Incident Guidelines. When an investigator from this bureau is involved in an OII, the criminal investigation will be handled according to those Guidelines.

404.4.3 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.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

404.5 INVESTIGATION PROCESS

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

404.5.1 UNINVOLVED INVESTIGATOR RESPONSIBILITIES

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

(a) Secure the scene and identify and eliminate hazards for all those involved.

(b) Take reasonable steps to obtain emergency medical attention for injured individuals.

(c) Request additional resources from the Bureau or other agencies.

(d) Coordinate a perimeter or pursuit of suspects.

(e) Check for injured persons and evacuate as needed.

(f) Brief the supervisor upon arrival.

404.5.2 DUTIES OF INITIAL ON SCENE SUPERVISOR

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

(a) Take all reasonable steps to obtain emergency medical attention for all apparently injured individuals.

(b) Attempt to obtain a brief overview of the situation from any uninvolved investigator witness(es). This brief overview is titled the "Public Safety Statement."

1. In the event that there are no uninvolved investigator witness(es) who can supply an adequate overview, the supervisor should attempt to obtain a brief voluntary overview from one involved investigator.

(c) If necessary, the supervisor may administratively order any BOI investigator to immediately provide public safety information necessary to secure the scene, identify injured parties and pursue suspects.

1. Public safety information shall be limited to such things as outstanding suspect information, number and direction of any shots fired, perimeter of the incident scene, identity of known or potential witnesses and any other pertinent information.

2. Absent a voluntary and spontaneous statement from an involved investigator(s), the initial on-scene supervisor shall not order or solicit any involved investigator to provide any information other than public safety information.

(d) Provide all available information to the responding police agency or sheriff department supervisor and Dispatch. If feasible, sensitive information should be communicated over secure networks.

(e) Take command of and secure the incident scene with additional BOI members until properly relieved by another supervisor or other assigned personnel or investigator.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(f) As soon as practicable, ensure that involved officers are transported (separately, if feasible) to the agency of jurisdiction upon their direction.

1. Each involved BOI investigator should be given an administrative order not to discuss the incident with other involved or witness investigators/officers or BOI members pending further direction from a supervisor.
2. When an involved officer's weapon is taken or left at the scene for other than officer-safety reasons (e.g., evidence), ensure that he/she is provided with a comparable replacement weapon or transported by other investigators.
3. The involved investigator's supervisor shall defer to the agency of jurisdiction's supervisor as to the method and means of transportation of involved investigators.

404.5.3 LIEUTENANT RESPONSIBILITIES

Upon learning of an officer-involved incident, the lieutenant shall be responsible for coordinating all aspects of the incident until relieved by the agency of jurisdiction. Should the investigator's lieutenant not be available, the Chief Investigator or designee shall assign a lieutenant.

404.5.4 NOTIFICATIONS

The following person(s) shall be notified as soon as practical after an investigator involved incident occurs:

- District Attorney
- Chief Assistant District Attorney
- Chief Trial Attorney
- Assistant District Attorney in charge of Homicide
- Chief Investigator
- Captain
- Attorney General's Office in San Francisco (after consulting with Chief Investigator)
- Civil Liability Sergeant at County Counsel
- Psychological/Peer support personnel
- District Attorney Investigator Association President or designee

All outside law enforcement inquiries about the incident shall be directed to the Chief Investigator or designee.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

404.5.5 INVOLVED INVESTIGATORS

The following shall be considered for the involved investigator:

(a) Any request for legal or union/association representation will be accommodated.

1. Involved BOI investigators shall be separated during the initial criminal investigation.
2. Involved BOI investigators shall not be permitted to meet collectively or in a group with an attorney or any representative prior to providing a formal interview or report.
3. Requests for legal or union representation from involved non-BOI officers should be referred to their employing agency.

(b) Discussions with licensed attorneys will be considered privileged as attorney-client communications.

(c) Discussions with Bureau representatives/employee groups will be privileged only as to the discussion of non-criminal information (Government Code § 3303(i)).

(d) A licensed psychotherapist shall be provided by the Bureau to each involved BOI investigator. A licensed psychotherapist may also be provided to any other affected BOI members, upon request.

1. Interviews with a licensed psychotherapist will be considered privileged and will not be disclosed except to the extent that the investigator is or not fit for return to duty.
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.

(e) Although the Office will honor the sensitivity of communications with peer counselors, there is no legal privilege to such. 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. Detectives shall make reasonable accommodations to the investigator's physical and emotional needs (Government Code § 3303(d)).

Each involved BOI investigator shall be given reasonable paid administrative leave following an officer-involved incident. It shall be the responsibility of the Chief Investigator or designee to make schedule adjustments to accommodate such leave.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

404.6 CRIMINAL INVESTIGATION

It shall be the policy of this Bureau to follow the Santa Clara County Police Chief's Association Officer-Involved Incident Guidelines for any incident defined within and to recognize that Bureau Investigators will not be part of the Incident Investigative Team when the incident involves Bureau investigators.

Once public safety issues have been addressed, members from the Incident Investigative Team will 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) BOI supervisors and Internal Affairs Unit personnel should not participate directly in any voluntary interview of BOI investigators. This will not prohibit such personnel from monitoring interviews or providing the criminal investigators with topics for inquiry.

(b) If requested, any involved officer will be afforded the opportunity to consult individually with a representative of his/her choosing or an attorney prior to speaking with criminal investigators (Government Code § 3303(i)). However, in order to maintain the integrity of each involved officer's statement, involved investigators shall not consult or meet with a representative or an attorney collectively or in groups prior to being interviewed.

(c) If any involved officer is physically, emotionally or otherwise not in a position to provide a voluntary statement when interviewed by criminal investigators, consideration should be given to allowing a reasonable period for the officer to schedule an alternate time for the interview.

(d) Any voluntary statement provided by an involved officer will be made available for inclusion in any related investigation, including administrative investigations. However, no administratively coerced statement will be provided to any criminal investigators unless the officer consents.

(e) Absent consent from the involved Investigator or as required by law, no administratively coerced statement(s) will be provided to any criminal investigators.

404.6.1 DETECTIVE PERSONNEL

Once notified of an investigator-involved incident, the responsible jurisdiction shall assign appropriate investigative personnel to handle the investigation along with the other members of the Incident Investigative Team.

All related bureau reports written by witness or non-involved investigators will be forwarded and reviewed by the designated investigator lieutenant for approval prior to being forwarded to the Incident Investigative Team.

404.6.2 REPORTS BY INVOLVED BOI INVESTIGATORS

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

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

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

404.6.3 WITNESS IDENTIFICATION AND INTERVIEWS

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

(a) Identification of all persons present at the scene and in the immediate area.

1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident but who were present at the time it occurred.
2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, investigators should attempt to identify the witness prior to his/her departure.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by a member of the Bureau.

1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

(c) Promptly contacting the suspect's known family and associates to obtain any available and untainted background information about the suspect's activities and state of mind prior to the incident.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

404.7 ADMINISTRATIVE INVESTIGATION

In addition to all other investigations associated with an investigator-involved incident, this bureau will conduct an internal administrative investigation of BOI investigators to determine conformance with bureau policy. The investigation will be conducted under the supervision of the assigned the Chief Investigator or designee and will be considered as part of an investigator personnel file as defined in California Penal Code § 832.7. Information from administrative investigations of investigator-involved incidents as described in 404.1 of this policy shall be made available to California Public Records Requests per California Penal Code § 832.7.

Interviews of members shall be subject to bureau policies and applicable laws (see California Government Code § 3300-3313).

(a) Any investigator involved in an incident defined in the Guidelines, may be administratively compelled to provide a blood sample for alcohol/drug screening. Absent consent from the investigator, such compelled samples and the results of any such testing shall not be disclosed to any criminal investigative agency.

(b) If any investigator has voluntarily elected to provide a statement to criminal investigators on the Incident Investigative Team, the assigned administrative investigator should review that statement before proceeding with any further interview of that involved investigator.

1. If a further interview of the investigator is deemed necessary to determine policy compliance, care should be taken to limit the inquiry to new areas with minimal, if any, duplication of questions addressed in the voluntary statement. The involved investigator shall be provided with a copy of his/her prior statement before proceeding with any subsequent interviews (Government Code § 3303(g)).

(c) In the event that an involved investigator has elected to not provide criminal investigators with a voluntary statement, the assigned administrative investigator shall conduct an administrative interview to determine all relevant information.

1. Although this interview should not be unreasonably delayed, care should be taken to ensure that the investigator's physical and psychological needs have been addressed before commencing the interview.

2. If requested, the investigator shall have the opportunity to select an uninvolved representative to be present during the interview. However, in order to maintain the integrity of each individual investigator's statement, involved investigators shall not consult or meet with a representative or attorney collectively or in groups prior to being interviewed (Government Code § 3303(i)).

3. Administrative interviews should be recorded by the Lieutenant conducting the interview (interviewer). The investigator (interviewee) may also record the interview (Government Code § 3303(g)).

4. The investigator shall be informed of all constitutional *Miranda* rights (Government Code § 3303(h)) and, assuming no voluntary waiver, will then be given an administrative order to provide full and truthful answers to all questions (Government Code § 3303(e)).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

5. The investigator shall be informed of the nature of the investigation. If an investigator refuses to answer questions, he/she should be given his/her *Lybarger* or *Garrity* rights and ordered to provide full and truthful answers to all questions. The investigator shall be informed that the interview will be for administrative purposes only and that the statement cannot be used criminally.
6. The command officer conducting the investigation shall compile all relevant information and reports necessary for the Bureau to determine compliance with applicable policies.
7. The completed administrative investigation shall be submitted to the Chief Investigator.
8. Any other indications of potential policy violations shall be determined in accordance with standard disciplinary procedures.

404.8 OFFICER/DEPUTY-INVOLVED INCIDENTS IN SANTA CLARA COUNTY

The role of the District Attorney's Office during an Officer-Involved Incident involving an officer or deputy (not involving a Bureau investigator) as defined in the Guidelines is as follows:

(a) Participate on the Incident Investigative Team with co-equal responsibility and authority as other members of the team.

(b) Participate on the Case Management Team along with an assigned Deputy District Attorney and the Primary Agency's command staff.

(c) Complete the investigation.

(d) When deemed necessary, perform an independent investigation, separate from that of the Incident Investigative Team. The District Attorney will notify the Primary Agency if an independent investigation is being conducted, except if such notification would compromise the integrity of the independent investigation.

1. A District Attorney investigator assigned to participate as an Incident Investigator on the Incident Investigative Team will not be a member or participant of an independent District Attorney investigation unless the Primary Agency is notified of such a dual role.

(e) Ultimately determine if criminal liability exists.

404.9 AUDIO AND VIDEO RECORDINGS

The Santa Clara County Police Chiefs' Association Officer-Involved Incident Guidelines lists the best practice for audio/video recordings of an investigator-involved incident.

(a) The initial interview of an involved investigator should occur before the investigator has reviewed any audio/video recordings of the incident.

(b) An involved investigator will have an opportunity to review recordings after the initial statement has been taken by the Incident Investigative Team.

(c) If any member of the Incident Investigative Team shows audio/video recordings to an involved investigator after the initial interview, the member of the Incident Investigative

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Team has the discretion to admonish an involved investigator about the limitations of audio/video recordings.

404.10 REPORTING

If the death of an individual occurs in the Santa Clara County District Attorney's Office, Bureau of Investigation jurisdiction and qualifies to be reported to the State of California as a justifiable homicide or an in-custody death, the Bureau of Investigation Lieutenant will ensure that the Records Supervisor is provided with enough information to meet the reporting requirements (Penal Code § 196; Penal Code § 13022; Government Code § 12525).

404.11 CIVIL LIABILITY RESPONSE

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

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

404.12 DEBRIEFING

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

404.12.1 CRITICAL INCIDENT/STRESS DEBRIEFING

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

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

Attendance at the debriefing shall only include those members of the Bureau directly involved in the incident, which can include support personnel (e.g., dispatchers, other civilian 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 Bureau, including supervisory and Internal Affairs Unit personnel.

404.12.2 TACTICAL DEBRIEFING

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

404.13 MEDIA RELATIONS

The agency having jurisdiction over the criminal investigation of the investigator-involved incident shall be responsible for all media inquiries and statements relating to the investigation. Investigators and supervisors shall refer such inquiries to the designated media representative of the investigating agency.

All other media inquires will be handled as directed by District Attorney Policy 5.01(a)(vi).

The Bureau shall not subject any involved BOI investigator to visits by the media (Government Code § 3303(e)). No involved BOI investigator shall make any comment to the media unless he/she is authorized by the the District Attorney. Bureau members receiving inquiries regarding officer-involved incidents 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.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Firearms

405.1 PURPOSE AND SCOPE

This policy establishes procedures for the acquisition, use, and documentation of training in the use of firearms. The Chief Investigator or his or her designee shall approve all Bureau firearms before they are utilized for on-duty use by any member of this Bureau.

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

405.2 POLICY

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

405.3 AUTHORIZED FIREARMS, AMMUNITION AND OTHER WEAPONS

Service weapons, magazines, holsters, ammunition and magazine pouches will be provided to Criminal Investigators certified as peace officers in accordance with Penal Code Section 830.1.

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

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

405.3.1 APPROVAL OF FIREARMS

All firearms used on duty must be either issued by the Bureau or approved in writing by the Chief Investigator or his designee after the weapon has been inspected and the Investigator using the firearm has completed an initial qualification course.

The following weapons are approved for use by authorized Investigators of this Bureau:

405.3.2 DUTY WEAPONS

The primary authorized Bureau-issued handgun is the Glock Model 23,.40 caliber and the Glock Model 19, 9mm. Other models of the Glock pistol may also be issued at the discretion of the Rangemaster as approved upon written authorization by the Chief Investigator or designee.

The following additional handguns are approved for on-duty use:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

1. Glock 9mm,.40 or.45 caliber handguns in models approved upon written authorization by the Chief Investigator or designee.
2. Other handgun makes and models may be approved upon written authorization from the Chief Investigator or designee.

Laser sights are not approved for use with duty weapons.

While on duty, authorized Investigators shall carry, at a minimum, one fully loaded magazine in addition to the magazine loaded in their duty firearm.

405.3.3 PERSONALLY OWNED DUTY FIREARMS

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

(a) The firearm shall be in good working order and on the bureau list of approved firearms.

(b) The firearm shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.

(c) Prior to carrying the firearm, members shall qualify under range supervision and thereafter shall qualify in accordance with the bureau qualification schedule. Members must demonstrate proficiency and safe handling, and that the firearm functions properly.

(d) Members shall provide written notice of the make, model, color, serial number and caliber of the firearm to the Rangemaster, who will maintain a list of the information.

405.3.4 CARBINES

Investigators authorized to utilize a Bureau-issued carbine rifle while on-duty must satisfactorily complete the requisite training requirements as mandated by P.O.S.T. and maintain on-going qualifications with the weapon as required by the Bureau Rangemasterand this policy. Bureau-issued carbine rifles may only be utilized during specialized on-duty circumstances defined by the Chief Investigator or his designee.

405.3.5 AUTHORIZED SECONDARY HANDGUN

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

(a) The handgun shall be in good quality and workmanship (e.g., Colt, Smith & Wesson, Browning, Sig Sauer, etc.).

(b) Firearm shall be a minimum of.380 caliber and a maximum of.45 caliber and shall carry no less than five rounds.

(c) The weapon shall not be equipped with laser sights.

(d) Only one secondary handgun may be carried at a time.

(e) The purchase of the handgun, holster, safety equipment, and certain unavailable ammunition not normally purchased for Bureau-issued firearm calibersshall be the

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

responsibility of the member unless the handgun and ammunition are provided by the Bureau.

(f) The handgun shall be carried concealed at all times and in such a manner as to prevent unintentional cocking, discharge or loss of physical control.

(g) The handgun shall be inspected by the Rangemaster prior to being carried and thereafter shall be subject to inspection whenever it is deemed necessary.

(h) Prior to carrying the secondary handgun, members shall qualify under range supervision and thereafter shall qualify in accordance with the bureau qualification schedule. Members must demonstrate proficiency and safe handling, and that the handgun functions properly.

(i) Members shall provide written notice of the make, model, color, serial number and caliber of a secondary handgun to the Rangemaster, who will maintain a list of the information.

405.3.6 AUTHORIZED OFF-DUTY FIREARMS

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

(a) The weapon shall be of good quality and workmanship (e.g., Glock, Colt, Smith & Wesson, Browning, and Sig Sauer).

(b) The purchase of the weapon, holster, safety equipment, and ammunition shall be the responsibility of the Investigator, unless the Investigator chooses to carry his/her issued equipment off duty.

(c) The weapon shall be carried concealed at all times and in such a manner as to prevent accidental cocking, discharge, or loss of physical control.

(d) If any Investigator desires to use more than one weapon while off duty, he or she may do so, as long as the Investigator meets all the requirements set forth in this off-duty weapon policy for each weapon used.

(e) When armed, investigators shall carry their badge and Santa Clara County District Attorney's Office, Bureau of Investigation identification.

405.3.7 AMMUNITION

Investigators shall carry only bureau-authorized ammunition while on duty.

Ammunition for secondary weapons shall be either Bureau-issued or approved by the Chief Investigator or designee before its use.

Members shall be issued fresh duty ammunition in the specified quantity for all bureau-issued firearms during the member's firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Bureau shall be dispensed by the Rangemaster when needed, in accordance with established policy.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

405.4 EQUIPMENT

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

405.4.1 INSPECTION, MAINTENANCE, REPAIR AND MODIFICATIONS

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

All Bureau-issued weapons will be inspected prior to being issued, and once annually thereafter. The Bureau Armorer will ensure that appropriate maintenance and repairs are performed and

documented.

All personally-owned weapons used on duty will be inspected prior to issuance, and once annually thereafter, through one of the following means:

(a) The Investigator will provide to the Bureau Armorer evidence of an inspection conducted by a gunsmith or armorer certified in the make and model of that weapon; or,

(b) A Bureau Armorer will conduct a documented safety inspection to ensure the weapon continues to appear safe for duty use, within the limits of the Armorer's training and experience as it relates to that particular weapon system.

All firearms used on duty are also subject to inspection at the request of any range staff member at any time.

Any weapon authorized by the Bureau to be carried on duty that is found by the Investigator to be malfunctioning or needing service shall not be carried on duty and shall be promptly presented to the Rangemaster or Bureau Armorer for inspection.

Any weapon determined to be in need of service or repair during an inspection by the Rangemaster or Armorer, whether Bureau-issued or personally-owned, will be immediately removed from service. If the weapon is the Investigator's primary duty weapon, a replacement weapon will be issued to the Investigator until the duty weapon is again rendered serviceable. If the weapon is personally-owned, the Investigator will be responsible for all repairs to his or her personal weapon and it will not be returned to service until inspected and approved by the Armorer.

Bureau Armorers shall be the only persons authorized to repair or modify any Bureau issued weapon. All repairs and/or modifications of Bureau issued weapons not performed by an authorized Bureau Armorer must be approved in advance by the Rangemaster and accomplished by a Bureau-approved gunsmith. Any repairs or modifications to the Investigator's personally-

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

owned on-duty weapon shall be done at his or her expense and must be approved by the Rangemaster or Bureau Armorer before returning to service.

405.4.2 HOLSTERS
Only bureau-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. Holsters may be issued for personally-owned weapons if the same holster could otherwise have been issued with a Bureau firearm.

All firearms carried while on duty shall be carried in a holster that prevents accidental cocking, discharge, or loss of physical control.On-duty holsters intended for use with an Investigator's primary firearm shall be of a construction that allows for one-handed holstering, and shall have an active restraint device (i.e. snapping thumb-break or active retention lock) of a type that does not require or allow the use of the trigger finger for engagement or disengagement.Exceptions may be granted in writing on a case-by-case basis by the Chief Investigator or his designee based on an evaluation of the nature of the need in conjunction with the level of available retention.

Investigators must demonstrate proficiency with any holster prior to its use on duty.In addition, Investigators must regularly train at firearms training sessions with all holsters and related equipment normally used on duty, in a manner that is consistent with the way in which they will be used in the field.

Investigators are responsible for the proper maintenance of all holsters and accessory equipment under their control. Issued holsters and accessories that become worn or damaged beyond repair may be replaced through the Armorer.

Holsters may not be modified or altered in any way that falls outside the scope of that holster's design.

405.4.3 TACTICAL LIGHTS
Tactical lights may NOT be installed on a Bureau-issued firearm carried on- or off-duty.

405.4.4 OPTICS OR LASER SIGHTS
Optics or laser sights may NOT be installed on a Bureau-issued firearm carried on- or off-duty.

405.5 SAFE HANDLING
The safe handling and storage of firearms in the workplace is paramount for the safety of all employees in the workplace. In order to ensure workplace safety, Investigators shall carry their firearm(s) on their person while on duty. Firearms should never be left in an unsecure area, even temporarily. Should the temporary storage of a firearm be necessary while on duty, Investigators shall comply with the following:

(a) Investigators shall not unnecessarily display or handle any firearm. Investigators should keep their duty weapon out of sight at all times while in public venues, except when engaged in overt enforcement operations or when otherwise indicated by good

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

judgment and sound safety considerations. Whenever an Investigator's handgun is deliberately exposed, his/her badge should also be displayed.

(b) Investigators shall be governed by all rules and regulations pertaining to the use of the range and shall obey all orders issued by the range staff. While on duty, Investigators shall not dry fire or practice quick draws except under Rangemaster or Firearms Instructor supervision.

(c) Investigators shall not clean or repair a firearm anywhere in the Bureau or range, except at a designated cleaning or repair station. Investigators shall not load or unload a firearm anywhere in the Bureau except at a designated clearing station, except during a potential public safety emergency.

(d) No Investigator shall carry firearms into a jail section or any part thereof without first securing said firearms in a secure location.

405.5.1 ALCOHOL AND DRUGS

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

405.5.2 INSPECTION

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

Personally owned firearms may be safely stored in lockers at the end of the shift. Bureau-owned firearms shall be stored in the appropriate equipment storage room. Handguns may remain loaded if they are secured in an appropriate holster.

405.6 STORAGE OF FIREARMS - GENERAL CONSIDERATIONS

The safe handling and storage of firearms in the workplace is paramount for the safety of all employees in the workplace. In order to ensure workplace safety, Investigators shall carry their firearm(s) on their person while on duty. Firearms should never be left in an unsecure area, even temporarily. Should the temporary storage of a firearm be necessary while on duty, Investigators shall comply with the following:

(a) Firearms shall only be removed from a holster during enforcement action or at an approved range, cleaning station, approved clearing barrel or for placement in a gun locker (such as at a jail facility or interview room facility) or lockable storage device.

(b) The storage of a firearm at the workplace is only allowed in a locked gun safe, locked office desk or locked filing cabinet and in a locked office space.

(c) The storage of a firearm in a cubicle-type office is prohibited unless the firearm is locked in an approved gun safe.

(d) Firearms shall not be stored in unattended purses, attaché cases, backpacks or similar containers at the workplace.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

405.6.2 STORAGE IN VEHICLES

Overnight storage of any firearm in a County-owned vehicle, or a Bureau issued firearm in any vehicle, is prohibited.

Storage of a firearm in a vehicle is also subject to the following restrictions:

The storage of any firearm in any vehicle while on duty is prohibited unless the vehicle is locked <u>and</u> any of the following applies:

(a) The vehicle is in the immediate control of the Investigator and the firearm is stored in a locked trunk. Immediate control means that the Investigator has immediate access, control and view of the vehicle at all times.

(b) The vehicle is not in the immediate control of the Investigator but the firearm is stored in a locked storage safe fixed to the interior of the trunk.

(c) The vehicle is parked in a jail sally-port or other secure jail/prison facility and a lockable firearms box at the facility is unavailable.

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

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

The storage of any firearm in a personal vehicle is prohibited unless the vehicle is locked <u>and</u> either of the following applies:

(a) The vehicle is in the immediate control of the investigator and the firearm is stored in a locked trunk. Immediate control means that the investigator has immediate access, control and view of the vehicle at all times.

(b) The vehicle is not in the immediate control of the investigator but the firearm is stored in a locked storage safe fixed to the interior of the trunk or a locked storage safe fixed to an interior space not visible from outside of the vehicle.

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

405.7 FIREARMS TRAINING AND QUALIFICATIONS

All authorized sworn personnel are required to qualify on an approved range course twice annually with their duty weapons, and annually with any secondary weapons.

Successful firearms qualification consists of the following elements:

(a) Safety.

(b) Weapon Manipulation / Target Score.

(c) Tactics / Judgment.

In addition to scheduling regular qualification, the Bureau will provide all sworn personnel with periodic and regular training that is practical and designed to simulate field situations.At least annually, personnel carrying a firearm will receive training on the Bureau Use of Force policy and demonstrate their knowledge and understanding.

Failure of any Investigator to sign in and out with range staff for training or qualification sessions may result in non-qualification or failure to receive credit for required training.

405.7.1 NON-CERTIFICATION OR NON-QUALIFICATION

The ability to safely qualify with a duty firearm is an essential job function of an Investigator. If any Investigator is unable to qualify for any reason, including injury, illness, duty status, or scheduling conflict, that Investigator shall submit a memorandum to his or her Lieutenant and the Training Lieutenant before any scheduled firearms training or qualification. If the affected Investigator is a Lieutenant, he or she shall submit the memorandum to the Captain or the Chief Investigator.

Any Investigator attending a range training or qualification session who is unable to participate in or continue any portion of the training for any reason, or who suffers any injury during the training, should immediately notify a member of the range staff.

Investigators who fail to qualify on their first shooting attempt shall be provided remedial training and will be subject to the following requirements:

(a) Additional range assignments may be required until consistent weapon proficiency is demonstrated and notice is provided to the Training Lieutenant.

(b) Members shall be given credit for a range training after remedial training and a qualifying score is obtained.

(c) No range credit will be given for the following:

  (a) Unauthorized range make-up

  (b) Failure to meet minimum standards or qualify after remedial training

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

405.8 RANGE STAFF DUTIES AND RESPONSIBILITIES

405.8.1 RANGEMASTER

The range will be under the exclusive control of the Rangemaster. In the Rangemaster's absence, a Firearms Instructor can be cross-designated as the Rangemaster for purposes of this policy upon authorization of the Chief Investigator or designee. The range shall remain operational and accessible to Bureau members during hours established by the Rangemaster.All Investigators attending the range will follow the directions of the Rangemaster.

The Rangemaster shall:

(a) Be responsible for scheduling range sessions to ensure Investigators have adequate opportunity to attend required qualifications and training.

(b) Ensure accurate records are kept regarding the content of, and attendance at, all qualification and training conducted by the range staff and any other records as directed by the Training Manager, and shall submit such records to the Training Manager after each range date.

(c) Coordinate with the Chief Firearms Instructor and Bureau Armorer to ensure that other range-related duties and responsibilities are being performed.

Bureau Firearms Instructors and Bureau Armorers are subordinate to the Rangemaster for purposes of firearms related issues addressed in this policy

405.8.2 ARMORER

The Bureau Armorer shall:

(a) Be responsible to the Rangemaster.

(b) Ensure the required inventory, inspection, maintenance and repair of all Bureau-issued firearms.

(c) Ensure the issuance of new service weapons and ammunition, as required, including for personnel involved in shooting incidents.

(d) Compile the following information for all firearms currently approved for use on duty: Make, model, caliber, serial number, ownership, intended use (primary vs. secondary), and records of inspection, maintenance and repair, purchase, transfer and destruction.

(e) Act as the Rangemaster upon approval of the Chief Investigator or designee.

405.8.3 CHIEF FIREARMS INSTRUCTOR

The Chief Firearms Instructor shall:

(a) Report to and comply with range-related direction from the Rangemaster.

(b) Be responsible for the selection, training and utilization of all Firearms Instructors. (c) Be responsible for the research and development of all qualification courses.

(c) Support the Bureau Armorer in his duties, where qualified to do so.

(d) Act as the Rangemaster upon approval of the Chief Investigator or designee.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

405.9 FIREARM DISCHARGE

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

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

(a) If on-duty at the time of the incident, the member shall file a written report with his/her Lieutenant 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 a recorded statement provided no later than the end of the next regularly scheduled shift, unless otherwise directed by a supervisor.

405.9.1 DESTRUCTION OF ANIMALS

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

In circumstances where there is sufficient advance notice that a potentially dangerous animal may be encountered, bureau members should develop reasonable contingency plans for dealing with the animal (e.g., fire extinguisher, Electro-muscular-disruption-technology-device (EMDT), 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.

405.9.2 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.

1. Prior to utilizing a firearm for the purpose of euthanizing an animal, investigators shall ensure the following:
    1. Bystanders are cleared from the immediate area to a position of safety.
    2. The surface upon which the animal is lying is checked to ensure ricochets are minimized.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

3. The backstop for the projectile is reviewed to ensure for the safety of others and to eliminate potential damage to property.

405.9.3 WARNING AND OTHER SHOTS

An investigator may fire a warning shot(s) when it is objectively reasonable and safe to do so under the following circumstances:

(a) In the defense of any person's life.

(b) To effect the arrest or prevent the escape of a suspected felon when the officer has probable cause to believe that the suspect has committed or intends to commit a felony involving the inflicting or threatened inflicting of serious bodily injury or death and the officer reasonably believes that there is an imminent or future potential risk of serious bodily injury or death to others if the suspect is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force where feasible.

No warning shots will be fired by an officer using a carbine.

405.9.4 MOVING VEHICLES

Shooting at moving vehicles is generally an ineffective practice and could have unintended ramifications, including the potential injury to other people in the area. Bullets fired may miss the intended target or ricochet and cause injury to officers or other innocent persons.

A moving vehicle may become an uncontrolled deadly weapon that could seriously injure or kill the occupants of the vehicle and/or subjects in its path if the driver becomes incapacitated before the vehicle comes to a stop. The potential harm to others in the area may outweigh the need to immediately apprehend the suspect.

Investigators shall not knowingly place themselves into the path of a moving vehicle or into the likely path of a vehicle that is currently stopped but is under the immediate control of a driver. When feasible, Investigators should attempt to move out of the path of any moving vehicle to a position of cover. This tactic is safer for the Investigator and may eliminate the need for shooting at the driver or occupant of a moving vehicle, thereby also making it safer for others in the area.

Shooting at the driver or occupant of a moving vehicle in self defense or the defense of another is an option only if:

(a) The investigator reasonably believes he or she, or another person, cannot move to a safe position, and

(b) There are no other safe and viable options available, and

(c) It is in defense of the life of the investigator or another person.

When a fleeing vehicle does not pose an immediate threat of serious bodily injury or death to the investigator or another person at the scene, firearms will not be discharged at such fleeing vehicles except in extraordinary circumstances when an investigator believes with a reasonable

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

certainty that the driver or occupant will inflict harm likely to cause serious bodily injury or death if allowed to escape.

405.9.5 WHEN FIREARMS WILL NOT BE DISCHARGED:
Firearms will not be discharged under the following circumstances:

(a) At misdemeanants who do not pose an imminent danger of death or serious physical harm to other persons.

(b) To effect the capture, or prevent the escape or rescue of, a suspect whom the officer has reasonable cause to believe has committed a felony which did not involve the use or a threat to use deadly force.

405.10 ACCIDENTAL DISCHARGE OF A FIREARM

In all instances where there is the accidental discharge of a firearm that does not result in an injury or death (See Policy "Officer Involved Incidents" for instances where the discharge of a firearm results in the injury or death of another), a thorough investigation will be conducted by the Lieutenant in the involved member's chain of command. The investigating Lieutenant will forward a detailed written report through the chain of command to the Chief Investigator. The report shall contain the Lieutenant's observations, conclusions, and recommendations addressing firearm training and possible administrative action.

The Lieutenant will notify the Department Rangemaster as soon as possible after the incident to schedule weapon inspection and determine the need to provide training. The inspection and training will be conducted as soon as possible.

In all cases of an accidental discharge, the weapon and magazine will be rendered safe, secured, and delivered to the Rangemater or designee for inspection. If the investigator is qualified to carry a Bureau issued weapon, one will be provided by the Rangemaster or designee.

If the weapon is not a Bureau issued weapon, the Lieutenant will contact the Rangemaster to determine if a duplicate weapon is available. If a duplicate weapon or the Rangemaster is unavailable, the Lieutenant will determine the appropriate duty assignment for the involved investigator until the officer can be rearmed.

405.10.1 REPORT OF WEAPON DISCHARGE
Except during training or recreational use, any member who discharges a weapon accidentally or intentionally, on or off duty, shall make a verbal report to his/her supervisor as soon as circumstances permit. If on duty at the time of the incident, the member shall file a written report with his/her Lieutenant before the end of shift and if off duty, as directed by the supervisor but no later than the end of the next regularly scheduled shift.

405.11 FLYING WHILE ARMED

The Transportation Security Administration (TSA) has imposed rules governing law enforcement officers flying armed on commercial aircraft. The following requirements apply to investigators who

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

(a) Investigators wishing to fly while armed must be flying in an official capacity, not for vacation or pleasure, and must have a need to have a firearm accessible, as determined by the Bureau based on the law and published TSA rules.

(b) Investigators must carry their Santa Clara County District Attorney's Office, Bureau of Investigation identification card, bearing the investigator's name, a full-face photograph, identification number, the investigator's signature and the signature of the Chief Investigator or the official seal of the Bureau and must present this identification to airline officials when requested. The investigator should also carry the standard photo identification needed for passenger screening by airline and TSA officials (e.g., driver license, passport).

(c) The Santa Clara County District Attorney's Office, Bureau of Investigation must submit a National Law Enforcement Telecommunications System (NLETS) message prior to the investigator's travel. If approved, TSA will send the Santa Clara County District Attorney's Office, Bureau of Investigation an NLETS message containing a unique alphanumeric identifier. The investigator must present the message on the day of travel to airport personnel as authorization to travel while armed.

(d) An official letter signed by the Chief Investigator authorizing armed travel may also accompany the investigator. The letter should outline the investigator's need to fly armed, detail his/her itinerary, and include that the investigator has completed the mandatory TSA training for a law enforcement officer flying while armed.

(e) Investigators must have completed the mandated TSA security training covering investigators flying while armed. The training shall be given by the bureau-appointed instructor.

(f) It is the investigator's responsibility to notify the air carrier in advance of the intended armed travel. This notification should be accomplished by early check-in at the carrier's check-in counter.

(g) Any investigator flying while armed should discreetly contact the flight crew prior to take-off and notify them of his/her assigned seat.

(h) Discretion must be used to avoid alarming passengers or crew by displaying a firearm. The investigator must keep the firearm concealed on his/her person at all times. Firearms are not permitted in carry-on luggage and may not be stored in an overhead compartment.

(i) Investigators should try to resolve any problems associated with flying armed through the flight captain, ground security manager, TSA representative or other management representative of the air carrier.

(j) Investigators shall not consume alcoholic beverages while aboard an aircraft, or within eight hours prior to boarding an aircraft.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

405.12 CARRYING FIREARMS OUT OF STATE

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

(a) The investigator shall carry his/her Santa Clara County District Attorney's Office, Bureau of Investigation identification card whenever carrying such firearm.

(b) Qualified retired Investigators shall also carry certification of having met firearms qualification within the past 12 months.

(c) The investigator is not the subject of any current disciplinary action.

(d) The investigator may not be under the influence of alcohol or any other intoxicating or hallucinatory drug.

(e) The investigator will remain subject to this and all other bureau policies (including qualifying and training).

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

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Duty to Warn

406.1 PURPOSE AND SCOPE

Investigators who become aware of threats made towards other person(s) will make reasonable and practical attempts to notify that person of the existence and nature of that threat.

406.2 PROCEDURE

Investigators who become aware of a verbal or written threat directed toward another person who may not be aware of the existence of this threat will take the following action:

(a) Immediately make a note of any available identifying information such as the name, address and telephone number of the party making the threat and the name of the potential victim.

(b) Make a note as to the nature of the threat and the relationship of the parties.

(c) Immediately notify and then deliver the above in writing to a Lieutenant.

(d) The Lieutenant shall notify the Captain, Chief Investigator or designee as soon as practical.

(e) The police agency having jurisdiction will be notified immediately by the Lieutenant so that the police agency can notify the threatened person and take appropriate action. The Captain, Chief Investigator or designee may authorize temporary security measures until the police agency having jurisdiction can respond.

(f) In the unlikely event that the police agency having jurisdiction can not be contacted or is unable to take immediate action, the Lieutenant will be responsible for seeing that the person threatened is properly notified and, if necessary, arrange to provide temporary security measures, as authorized by the Captain, Chief Investigator or designee, until such time as the police agency having jurisdiction can respond.

(g) The Lieutenant shall insure that a Bureau of Investigation case number is generated and all correspondences, notes and reports are retained in the case file for future reference.

Investigators shall also become familiar with SCCDA Policy and Procedure Manual Section 5.01(a)(iv)2, "Duty to Warn."

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Search and Seizure

407.1 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 Santa Clara County District Attorney's Office, Bureau of Investigation personnel to consider when dealing with search and seizure issues.

407.2 POLICY

It is the policy of the Santa Clara County District Attorney's Office, Bureau of Investigation 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.

In accordance with the Training Policy, the Department will provide relevant and current training to investigators as guidance for the application of current law, local community standards and prosecutorial considerations regarding specific search and seizure situations, as appropriate.

407.3 SEARCHES

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

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

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

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

Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this 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.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

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

407.4 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) Investigators should explain to the person being searched the reason for the search and how the search will be conducted.

(c) Searches should be carried out with due regard and respect for private property interests and in a manner that minimizes damage. Property should be left in a condition as close as reasonably possible to its pre-search condition.

(d) In order to minimize the need for forcible entry, an attempt should be made to obtain keys, combinations or access codes when a search of locked property is anticipated.

(e) When the person to be searched is of the opposite sex as the searching investigator, a reasonable effort should be made to summon an investigator of the same sex as the subject to conduct the search. When it is not practicable to summon an investigator of the same sex as the subject, the following guidelines should be followed:

1. Another investigator or a supervisor should witness the search.
2. The investigator should not search areas of the body covered by tight-fitting clothing, sheer clothing or clothing that could not reasonably conceal a weapon.

407.5 DOCUMENTATION

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

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

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Custodial Searches

408.1 PURPOSE AND SCOPE

This policy provides guidance regarding searches of individuals in custody. Such searches are necessary to eliminate the introduction of contraband, intoxicants or weapons into the Santa Clara County District Attorney's Office, Bureau of Investigation facility. Such items can pose a serious risk to the safety and security of department members, individuals in custody, contractors and the public.

Nothing in this policy is intended to prohibit the otherwise lawful collection of trace evidence from an individual in custody.

408.2 DEFINITIONS

Definitions related to this policy include:

Custody search - An in-custody search of an individual and that individual'sproperty, shoes and clothing, including pockets, cuffs and folds on the clothing, to remove all weapons, dangerous items and contraband.

Physical body cavity search - A search that includes a visual inspection and may include a physical intrusion into a body cavity. "Body cavity" means the stomach, rectal cavity, or vagina of an individual..

Strip search - A search that requires an individual to remove or rearrange some or all of his/her clothing to permit a visual inspection of the underclothing, breasts, buttocks, anus or outer genitalia. This includes monitoring an individual who is changing clothes, where his/her underclothing, buttocks, genitalia or female breasts are visible.

408.3 POLICY

All searches shall be conducted with concern for safety, dignity, courtesy, respect for privacy and hygiene, and in compliance with policy and law to protect the rights of those who are subject to any search.

Searches shall not be used for intimidation, harassment, punishment or retaliation.

408.3.1 FIELD AND TRANSPORTATION SEARCHES

An investigator should conduct a custody search of an individual immediately after arrest, when receiving an individual from the custody of another, and before transporting a person who is in custody in any department vehicle.

Whenever practicable, a custody search should be conducted by an investigator of the same sex as the person being searched. If an investigator of the same sex is not reasonably available, a witnessing investigator should be present during the search.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

408.3.2 SEARCHES AT POLICE FACILITIES

Custody searches shall be conducted on all individuals in-custody, upon entry to the Santa Clara County District Attorney's Office, Bureau of Investigation facilities. Except in exigent circumstances, the search should be conducted by a member of the same sex as the individual being searched. If a member of the same sex is not available, a witnessing member must be present during the search.

Custody searches should also be conducted any time an individual in custody enters or re-enters a secure area, or any time it is reasonably believed that a search is necessary to maintain the safety and security of the facility.

408.3.3 PROPERTY

Members shall take reasonable care in handling the property of an individual in custody to avoid discrepancies or losses. Property retained for safekeeping shall be kept in a secure location until the individual is released or transferred.

Some property may not be accepted by a facility or agency that is taking custody of an individual from this department, such as weapons or large items. These items should be retained for safekeeping in accordance with the Property and Evidence Policy.

All property shall be inventoried by objective description (this does not include an estimated value). The individual from whom it was taken shall be required to sign the completed inventory. If the individual's signature cannot be obtained, the inventory shall be witnessed by another department member. The inventory should include the case number, date, time, member's Santa Clara County District Attorney's Office, Bureau of Investigation identification number and information regarding how and when the property may be released.

408.3.4 VERIFICATION OF MONEY

All money shall be counted in front of the individual from whom it was received. When possible, the individual shall initial the dollar amount on the inventory. Additionally, all money should be placed in a separate envelope and sealed. Negotiable checks or other instruments and foreign currency should also be sealed in an envelope with the amount indicated but not added to the cash total. All envelopes should clearly indicate the contents on the front. The department member sealing it should place his/her initials across the sealed flap. Should any money be withdrawn or added, the member making such change shall enter the amount below the original entry and initial it. The amount of money in the envelope should always be totaled and written on the outside of the envelope.

408.4 STRIP SEARCHES

No individual in temporary custody at any Santa Clara County District Attorney's Office, Bureau of Investigation facility shall be subjected to a strip search unless there is reasonable suspicion based upon specific and articulable facts to believe the individual has a health condition requiring immediate medical attention or is concealing a weapon or contraband. Factors to be considered in determining reasonable suspicion include, but are not limited to:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(a) The detection of an object during a custody search that may be a weapon or contraband and cannot be safely retrieved without a strip search.

(b) Circumstances of a current arrest that specifically indicate the individual may be concealing a weapon or contraband.

1. A felony arrest charge or being under the influence of a controlled substance should not suffice as reasonable suspicion absent other facts.

(c) Custody history (e.g., past possession of contraband while in custody, assaults on department members, escape attempts).

(d) The individual's actions or demeanor.

(e) Criminal history (i.e., level of experience in a custody setting).

No transgender or intersex individual shall be searched or examined for the sole purpose of determining the individual's genital status. If the individual's genital status is unknown, it may be determined during conversations with the person, by reviewing medical records, or as a result of a broader medical examination conducted in private by a medical practitioner (28 CFR 115.115).

408.4.1 STRIP SEARCH PROCEDURES

Strip searches at Santa Clara County District Attorney's Office, Bureau of Investigation facilities shall be conducted as follows (28 CFR 115.115):

(a) Written authorization from the lieutenant or custodial facility supervisor shall be obtained prior to the strip search.

(b) All members involved with the strip search shall be of the same sex as the individual being searched, unless the search is conducted by a medical practitioner.

(c) All strip searches shall be conducted in a professional manner under sanitary conditions and in a secure area of privacy so that it cannot be observed by those not participating in the search. The search shall not be reproduced through a visual or sound recording.

(d) Whenever possible, a second member of the same sex should also be present during the search, for security and as a witness to the finding of evidence.

(e) All strip searches of transgender arrestees will be done in the order of the following parameters:

1. By two officers of the gender requested by the transgender arrestee.

2. If the arrestee does not specify a preference, then the search will be done by two officers of the same gender as the transgender arrestee's gender presentation. (e.g., a female-to-male arrestee expressing no preference should be searched by two male officers).

3. If gender presentation or identity is not clear to the arrestee, the arrestee will be requested to fill out the *Santa Clara County Sheriff's Office Statement of Preference Form.* This form may be located at the Santa Clara County Sheriff's Department's Policy and Procedure Manual under Policy 14.17 - Lesbian, Gay, Bisexual, Transgender, Questioning/Queer and Intersex (LGBTQI) Inmates.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(f) Members conducting a strip search shall not touch the breasts, buttocks or genitalia of the individual being searched.

(g) The primary member conducting the search shall prepare a written report to include:

1. The facts that led to the decision to perform a strip search.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The written authorization for the search, obtained from the lieutenant.
4. The name of the individual who was searched.
5. The name and sex of the members who conducted the search.
6. The name, sex and role of any person present during the search.
7. The time and date of the search.
8. The place at which the search was conducted.
9. A list of the items, if any, that were recovered.
10. The facts upon which the member based his/her belief that the individual was concealing a weapon or contraband.

(h) No member should view an individual's private underclothing, buttocks, genitalia or female breasts while that individual is showering, performing bodily functions or changing clothes, unless he/she otherwise qualifies for a strip search. However, if serious hygiene or health issues make it reasonably necessary to assist the individual with a shower or a change of clothes, a supervisor should be contacted to ensure reasonable steps are taken to obtain the individual's consent and/or otherwise protect his/her privacy and dignity.

(i) If the individual has been arrested for a misdemeanor or infraction offense, the written authorization from the lieutenant shall include specific and articulable facts and circumstances upon which the reasonable suspicion determination for the search was made (Penal Code § 4030(f)).

(j) A copy of the written authorization shall be retained and made available upon request to the individual or the individual's authorized representative. A record of the time, date, place of the search, the name and sex of the person conducting the search, and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative (Penal Code § 4030(i)).

408.4.2 SPECIAL CIRCUMSTANCE FIELD STRIP SEARCHES

A strip search may be conducted in the field only with lieutenant authorization and only in exceptional circumstances, such as when:

(a) There is probable cause to believe that the individual is concealing a weapon or other dangerous item that cannot be recovered by a more limited search.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(b) There is probable cause to believe that the individual is concealing controlled substances or evidence that cannot be recovered by a more limited search, and there is no reasonable alternative to ensure the individual cannot destroy or ingest the substance during transportation.

These special-circumstance field strip searches shall only be authorized and conducted under the same restrictions as the strip search procedures in this policy, except that the lieutenant authorization does not need to be in writing.

408.5 PHYSICAL BODY CAVITY SEARCH

Physical body cavity searches shall be subject to the following:

(a) No individual shall be subjected to a physical body cavity search without written approval of the lieutenant and only upon a search warrant (Penal Code § 4030(h)). A copy of any search warrant and the results of the physical body cavity search shall be included with the related reports and made available, upon request, to the individual or authorized representative (except for those portions of the warrant ordered sealed by a court).

(b) Only a physician, nurse practitioner, registered nurse, licensed vocational nurse or Emergency Medical Technician Level II licensed to practice in California may conduct a physical body cavity search (Penal Code § 4030(k)).

(c) Except for the physician or licensed medical personnel conducting the search, persons present must be of the same sex as the individual being searched. Only the necessary department members needed to maintain the safety and security of the medical personnel shall be present (Penal Code § 4030(l)).

(d) Privacy requirements, including restricted touching of body parts and sanitary condition requirements, are the same as required for a strip search.

(e) All such searches shall be documented, including:

1. The facts that led to the decision to perform a physical body cavity search of the individual.
2. The reasons less intrusive methods of searching were not used or were insufficient.
3. The lieutenant's approval.
4. A copy of the search warrant.
5. The time, date and location of the search.
6. The medical personnel present.
7. The names, sex and roles of any department members present.
8. Any contraband or weapons discovered by the search.

(f) Copies of the written authorization and search warrant shall be retained and shall be provided to the individual who was searched or other authorized representative upon request. A record of the time, date, place of the search, the name and sex of

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

the person conducting the search and a statement of the results of the search shall also be retained and made available upon request to the individual or the individual's authorized representative (Penal Code § 4030(i)).

408.6 TRAINING

The Training Manager shall ensure members have training that includes (28 CFR 115.115):

(a) Conducting searches of cross-gender individuals.

(b) Conducting searches of transgender and intersex individuals.

(c) Conducting searches in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Juvenile Booking Criteria

409.1 PURPOSE AND SCOPE

District Attorney investigators will follow the Santa Clara County Police Chiefs' Association protocol which establishes criteria for the incarceration of suspected juvenile offenders.

The purpose of the protocol is to provide guidance to Santa Clara County law enforcement officers and their respective agencies in making informed decisions regarding incarceration of youthful offenders; and interacting with children age 11 and under who engage in truant or delinquent behavior but do not fall within juvenile justice court jurisdiction.

409.1.1 JURISDICTION

Juvenile justice court has jurisdiction over:

1. Minors 12 years of age and older; or
2. Minors age 11 and under who are alleged to have committed: (1) murder; (2) rape by force, violence, duress, menace or fear; (3) sodomy by force, violence, duress, menace or fear; (4) oral copulation by force, violence, duress, menace or fear; or (5) sexual penetration by force, violence, duress, menace, or fear.

409.2 GOAL

The goal of Santa Clara County law enforcement agencies shall be to minimize unnecessary incarceration of youthful offenders by seeking alternatives to custodial confinement and to comply with those requirements set forth in Senate Bill (SB) 439 as it relates to Welfare and Institutions (W&I) Codes §§ 601, 602 and 602.1.

Santa Clara County law enforcement agencies are committed to developing community partnerships that have the goal of creating alternatives to the incarceration of juveniles.

409.3 POLICY

In determining the disposition of youthful offenders, it shall be the policy of the Bureau of Investigation to balance community safety, legal mandates and the best interests of the juvenile. The alternative that is least restrictive to the juvenile is preferred. Whenever appropriate, community resources will be utilized as an alternative to incarceration.

When interacting with children age 11 and under who are engaged in truant or delinquent behavior but do not fall within juvenile justice court jurisdiction, investigators shall respond with the least restrictive appropriate measures available.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

409.4 PROCEDURE

(a) If the youth falls within juvenile court jurisdiction, investigators shall release juvenile offenders, which includes release to parents, release with a written promise to appear, release to a diversion program, or alternative community resources unless one or more of the following circumstances exist:

(a) The juvenile is 14 years old, or older, and commits a violation specified under section 707(b) W&I

(b) An outstanding arrest warrant exists for the juvenile, or a probation officer directs incarceration

(c) The release of the juvenile would create a continuing threat to public safety and/ or to an individual

(d) The crime is violent (including domestic violence), serious, or involves a firearm

(e) Any crime involving domestic violence.

(f) When satisfactory evidence of identity cannot be established.

(g) When a parent or guardian cannot be located.

(h) Release of the juvenile would compromise the investigation

(i) The juvenile demands to be taken before a magistrate

(b) If the juvenile offender is age 11 and under and is not within juvenile justice court jurisdiction, investigators shall release the child to a parent, guardian, family member or caregiver, unless:

- The child is a victim of abuse or neglect, there is an immediate danger of physical or sexual abuse, the child cannot be safely returned to the parent or guardian, or the physical environment in which the child is found poses an immediate threat to the child's health or safety. In these situations, the officer should call the DFCS 24/7 hotline for Joint Response: (833) SCC-KIDS (722-5437).
- The child has an immediate need of medical care. The investigator should take the child to the closest hospital or trauma center.
- The child is reported missing from another jurisdiction. The investigator should call the National Crime Information Center 24/7 hotline: (304) 625-2000.
- There is an active protective custody warrant for the child from another jurisdiction. The investigator should call Santa Clara County Juvenile Probation Dept.: (408) 278- 5818.
- The child presents a harm to themselves or others. The investigator should follow the policies for temporary involuntary commitment of a minor (WIC §5585) (§5150 for minors) on a 72-hour hold.

409.4.1 JUVENILE DETENTION RESTRICTIONS

Unless reasonable, investigators should not securely detain or handcuff children age 11 and under.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Youth who do not fall within juvenile court jurisdiction shall not be fingerprinted for purposes of entry into the Criminal Justice Information Control database.

409.4.2 TRANSPORTING JUVENILES
Children age 11 and under should only be transported in a marked police vehicle:

- to protect the safety of the child;
- when no alternative transportation is available; or
- to carry out the least restrictive alternative (for example, if no parent, guardian, family member or caregiver is available or willing to accept the child, police may transport the child to a facility or service provider.

409.4.3 COMMUNITY ALTERNATIVES TO INCARCERATION
Santa Clara County Law Enforcement agencies can refer juvenile offenders who are not eligible to be admitted to Juvenile Hall and when parents, guardians, family members or caregivers are unavailable or unwilling to accept the youth, to the following resources on a 24-hour basis. The resource agencies are:

Bill Wilson Center

SOS Crisis Hotline (24/7) (408) 278-2585

Area served: North County

Countywide shelter services provided

Community Solutions

SOS Crisis Hotline (24/7) (408) 683-4118

Area Served: Morgan Hill, San Martin, Gilroy and unincorporated areas South of San Jose City limits.

Investigators should provide responding case managers with a completed green copy of the JCR and ensure that the JCR contains a case number.

409.5 TRAINING

The training lieutenant shall ensure investigators receive training on juvenile detentions and transportation.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Temporary Custody of Juveniles

410.1 PURPOSE AND SCOPE

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

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

410.2 GOAL

The Santa Clara County Police Chiefs' Association has adopted the "Juvenile Detention Reform" protocol in which members of this Bureau shall adopt. The goal of the protocol is to minimize unnecessary incarceration of youthful offenders by seeking alternatives to custodial confinement and to comply with those requirements set forth in Senate Bill (SB) 439 as it relates to Welfare and Institutions (W&I) Codes §§ 601, 602 and 602.1 specifically when dealing with children age 11 and under who engage in truant or delinquent behavior but do not fall within juvenile justice court jurisdiction.

410.2.1 JURISDICTION

Juvenile justice court has jurisdiction over:

(a) Minors 12 years of age and older; or

(b) Minors age 11 and under who are alleged to have committed: (1) murder; (2) rape by force, violence, duress, menace or fear; (3) sodomy by force, violence, duress, menace or fear; (4) oral copulation by force, violence, duress, menace or fear; or (5) sexual penetration by force, violence, duress, menace, or fear.

410.3 DEFINITIONS

Definitions related to this policy include:

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

Juvenile offender - A juvenile aged between 12 and 17 years who is alleged to have committed an offense that would subject an adult to arrest (a non-status offense) or juveniles aged 11 and under who are alleged to have committed: (1) murder; (2) rape by force, violence, duress, menace or fear; (3) sodomy by force, violence, duress, menace or fear; (4) oral copulation by force, violence, duress, menace or fear; or (5) sexual penetration by force, violence, duress, menace, or fear.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

For juveniles aged 12 and older, a juvenile offender also includes an offense under Penal Code § 29610 for underage possession of a handgun or concealable firearm (28 C.F.R. § 31.303). Juvenile offenders as per this definition fall under the jurisdiction of the Juvenile justice system.

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

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

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

Examples of secure custody include:

(a) A juvenile left alone in an unlocked room within the secure perimeter of the adult temporary holding area.

(b) A juvenile handcuffed to a rail.

(c) A juvenile placed in a room that contains doors with delayed egress devices that have a delay of more than 30 seconds.

(d) A juvenile being processed in a secure booking area when a non-secure booking area is available.

(e) A juvenile left alone in a secure booking area after being photographed and fingerprinted.

(f) A juvenile placed in a cell within the adult temporary holding area, whether or not the cell door is locked.

(g) A juvenile placed in a room that is capable of being locked or contains a fixed object designed for cuffing or restricting movement.

Sight and sound separation - Located or arranged to prevent physical, visual, or auditory contact.

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

410.4 POLICY

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

When interacting with children age 11 and under who are engaged in truant or delinquent behavior but do not fall within juvenile justice court jurisdiction, investigators shall respond with the least restrictive appropriate measures available.

410.5 JUVENILES WHO SHOULD NOT BE HELD

Juveniles who exhibit any of the following conditions should not be held at the Santa Clara County District Attorney's Office, Bureau of Investigation:

(a) Unconscious

(b) Seriously injured

(c) A known suicide risk or obviously severely emotionally disturbed

(d) Significantly intoxicated except when approved by the lieutenant. A medical clearance shall be obtained for minors who are under the influence of drugs, alcohol, or any other intoxicating substance to the extent that they are unable to care for themselves (15 CCR 1151).

(e) Extremely violent or continuously violent

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

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

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

410.5.1 EXCEPTIONS

(a) If the youth falls within juvenile court jurisdiction, investigators shall release juvenile offenders per the Santa Clara County Police Chiefs' Association Protocol, which include release to parents, release with a written promise to appear, release to a diversion program, or alternative community resources unless one or more of the following circumstances exist:

1. The juvenile is 14 years old, or older, and commits a violation specified under Welfare and Institutions Code § 707(b).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

2. An outstanding arrest warrant exists for the juvenile, or a probation officer directs incarceration
3. The release of the juvenile would create a continuing threat to public safety and/or an individual.
4. The crime is violent (including domestic violence), serious, or involves a firearm.
5. Any crime involving domestic violence.
6. When satisfactory evidence of identity cannot be established.
7. When a parent or guardian cannot be located.
8. Release of the juvenile would compromise the investigation.
9. The juvenile demands to be taken before a magistrate.

(b) If the juvenile offender is age 11 and under and is not within juvenile justice court jurisdiction, investigators shall release the child to a parent, guardian, family member or caregiver, unless:

1. The child is a victim of abuse or neglect, there is an immediate danger of physical or sexual abuse, the child cannot be safely returned to the parent or guardian, or the physical environment in which the child is found poses an immediate threat to the child's health or safety. In these situations, the officer should call the DFCS 24/7 hotline for Joint Response: (833) SCC-KIDS (722-5437).
2. The child has an immediate need of medical care. The investigator should take the child to the closest hospital or trauma center.
3. The child is reported missing from another jurisdiction. The investigator should call the National Crime Information Center 24/7 hotline: (304) 625-2000.
4. There is an active protective custody warrant for the child from another jurisdiction. The investigator should call Santa Clara County Juvenile Probation Dept.: (408) 278- 5818.
5. The child presents a harm to themselves or others. The officer should follow the policies for temporary involuntary commitment of a minor (WIC §5585) (§5150 for minors) on a 72-hour hold.

410.5.2 EMERGENCY MEDICAL CARE OF JUVENILES IN CUSTODY

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

In cases where injury or illness is life threatening and where lost minutes may be the deciding factor, the arresting investigator or the discovering investigator should administer first aid prior to the arrival of the paramedics. The juvenile will then be transported to a medical facility.

410.5.3 SUICIDE PREVENTION OF JUVENILES IN CUSTODY

Bureau members should be alert to potential symptoms based upon exhibited behavior that may indicate the juvenile is a suicide risk. These symptoms may include depression, refusal to

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

communicate, verbally threatening to kill him/herself, or any unusual behavior which may indicate the juvenile may harm him/herself while in either secure or non-secure custody (15 CCR 1142).

The detaining or transporting investigator is responsible to notify a lieutenant or the Captain if he/she believes the juvenile may be a suicide risk. The lieutenant or the Captain will then arrange to contact a mental health team for evaluation, or to contact Juvenile Hall and arrange for the transfer of the juvenile, providing the juvenile meets the intake criteria. The juvenile shall be under constant personal supervision until the transfer is completed.

410.6 CUSTODY OF JUVENILES

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

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

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

410.6.1 CUSTODY OF JUVENILE NON-OFFENDERS

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

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

410.6.2 CUSTODY OF JUVENILE STATUS OFFENDERS

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

410.6.3 CUSTODY OF JUVENILE OFFENDERS

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

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

A juvenile offender who is 14 years of age or older and suspected of using a firearm in violation of Welfare and Institutions Code § 625.3 shall be transported to a juvenile facility.

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

In all other cases the juvenile offender may be:

(a) Released upon warning or citation.

(b) Released to a parent or other responsible adult after processing at the Bureau.

(c) Referred to a probation officer for a decision regarding whether to transport the juvenile offender to a juvenile facility.

(d) Transported to his/her home or to the place where the juvenile offender was taken into custody (Welfare and Institutions Code § 207.2).

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

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

410.7 ADVISEMENTS

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

Whenever a juvenile is taken into temporary custody, he/she shall be given the *Miranda* rights advisement regardless of whether questioning is intended (Welfare and Institutions Code § 625).

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

410.8 JUVENILE CUSTODY LOGS

Any time a juvenile is held in custody by the Bureau, the custody shall be promptly and properly documented in the juvenile custody log, including:

(a) Identifying information about the juvenile.

(b) Date and time of arrival and release from the Santa Clara County District Attorney's Office, Bureau of Investigation (15 CCR 1150).

(c) lieutenant notification and approval to temporarily hold the juvenile.

(d) Any charges for which the juvenile is being held and classification of the juvenile as a juvenile offender, status offender, or non-offender.

(e) Any changes in status (e.g., emergency situations, unusual incidents).

(f) Time of all safety checks.

(g) Any medical and other screening requested and completed (15 CCR 1142).

(h) Circumstances that justify any secure custody (Welfare and Institutions Code § 207.1(d); 15 CCR 1145).

(i) Any other information that may be required by other authorities, such as compliance inspectors or a local juvenile court authority.

The lieutenant shall initial the log to approve the custody, including any secure custody, and shall also initial the log when the juvenile is released.

410.9 NO-CONTACT REQUIREMENTS

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

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

410.10 TEMPORARY CUSTODY REQUIREMENTS

Members and supervisors assigned to monitor or process any juvenile at the Santa Clara County District Attorney's Office, Bureau of Investigation shall ensure the following:

(a) The lieutenant should be notified if it is anticipated that a juvenile may need to remain at the Santa Clara County District Attorney's Office, Bureau of Investigation more than four hours. This will enable the lieutenant to ensure no juvenile is held at the Santa Clara County District Attorney's Office, Bureau of Investigation more than six hours.

(b) A staff member of the same sex shall supervise personal hygiene activities and care, such as changing clothing or using the restroom, without direct observation to allow for privacy.

(c) Personal safety checks and significant incidents/activities shall be noted on the log.

(d) Juveniles in custody are informed that they will be monitored at all times, except when using the toilet.

1. There shall be no viewing devices, such as peep holes or mirrors, of which the juvenile is not aware.

2. This does not apply to surreptitious and legally obtained recorded interrogations.

(e) Juveniles shall have reasonable access to toilets and wash basins (15 CCR 1143).

(f) Food shall be provided if a juvenile has not eaten within the past four hours or is otherwise in need of nourishment, including any special diet required for the health of the juvenile (15 CCR 1143).

(g) Juveniles shall have reasonable access to a drinking fountain or water (15 CCR 1143).

(h) Juveniles shall have reasonable opportunities to stand and stretch, particularly if handcuffed or restrained in any way.

(i) Juveniles shall have privacy during family, guardian, and/or lawyer visits (15 CCR 1143).

(j) Juveniles shall be permitted to remain in their personal clothing unless the clothing is taken as evidence or is otherwise unsuitable or inadequate for continued wear while in custody (15 CCR 1143).

(k) Blankets shall be provided as reasonably necessary (15 CCR 1143).

1. The supervisor should ensure that there is an adequate supply of clean blankets.

(l) Adequate shelter, heat, light, and ventilation should be provided without compromising security or enabling escape.

(m) Juveniles shall have adequate furnishings, including suitable chairs or benches.

(n) Juveniles shall have the right to the same number of telephone calls as an adult in temporary custody.

(o) No discipline may be administered to any juvenile, nor may juveniles be subjected to corporal or unusual punishment, humiliation, or mental abuse (15 CCR 1142).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(p) Youth who do not fall within juvenile court jurisdiction shall not be fingerprinted for purposes of entry into the Criminal Justice Information Control database.

410.11 USE OF RESTRAINT DEVICES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Santa Clara County District Attorney's Office, Bureau of Investigation when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening (15 CCR 1142).

Unless reasonable, investigators should not securely detain or handcuff children age 11 and under.

Other restraints shall only be used after less restrictive measures have failed and with the approval of the lieutenant. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others (15 CCR 1142).

Juveniles in restraints shall be kept away from other unrestrained juveniles or monitored in such a way as to protect the juvenile from abuse (15 CCR 1142).

410.12 PERSONAL PROPERTY

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

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

410.13 SECURE CUSTODY

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

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

(a) Age, maturity, and delinquent history

(b) Severity of offense for which the juvenile was taken into custody

(c) The juvenile offender's behavior

(d) Availability of staff to provide adequate supervision or protection of the juvenile offender

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(e) Age, type, and number of other individuals in custody at the facility

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

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

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

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

410.13.1 LOCKED ENCLOSURES

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

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

(a) The juvenile shall constantly be monitored by an audio/video system during the entire custody.

(b) Juveniles shall have constant auditory access to Bureau members (15 CCR 1147).

(c) Initial placement into and removal from a locked enclosure shall be logged (Welfare and Institutions Code § 207.1(d)).

(d) Unscheduled safety checks to provide for the health and welfare of the juvenile by a staff member, no less than once every 15 minutes, shall occur (15 CCR 1147; 15 CCR 1151).

1. All safety checks shall be logged.
2. The safety check should involve questioning the juvenile as to his/her well-being (sleeping juveniles or apparently sleeping juveniles should be awakened).
3. Requests or concerns of the juvenile should be logged.

(e) Males and females shall not be placed in the same locked room (15 CCR 1147).

(f) Juvenile offenders should be separated according to severity of the crime (e.g., felony or misdemeanor).

(g) Restrained juveniles shall not be mixed in a cell or room with unrestrained juveniles.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

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

(a) Immediate notification of the on-duty supervisor, Chief Investigator, and Criminal Investigations Bureau Supervisor.

(b) Notification of the parent, guardian, or person standing in loco parentis of the juvenile.

(c) Notification of the appropriate prosecutor.

(d) Notification of the County attorney.

(e) Notification to the coroner.

(f) Notification of the juvenile court.

(g) In the case of a death, providing a report to the Attorney General under Government Code § 12525 within 10 calendar days of the death, and forwarding the same report to the Board of State and Community Corrections within the same time frame (15 CCR 1046).

(h) A medical and operational review of deaths and suicide attempts pursuant to 15 CCR 1046.

(i) Evidence preservation.

410.15 INTERVIEWING OR INTERROGATING JUVENILE SUSPECTS

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

Prior to conducting a custodial interrogation, including the waiver of *Miranda* rights, an investigator shall permit a juvenile 15 years of age or younger to consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived by the juvenile. The requirement to consult with legal counsel does not apply when (Welfare and Institutions Code § 625.6):

(a) Information is necessary to protect life or property from an imminent threat.

(b) The questions are limited to what is reasonably necessary to obtain the information relating to the threat.

(c) During booking or phone interviews, or when spontaneous statements are made.

410.15.1 MANDATORY RECORDINGS OF JUVENILES

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

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(a) Recording is not feasible because of exigent circumstances that are later documented in a report.

(b) The individual refuses to have the interrogation recorded, including a refusal any time during the interrogation, and the refusal is documented in a report. If feasible, the refusal shall be electronically recorded.

(c) The custodial interrogation occurred in another state by law enforcement officers of that state, unless the interrogation was conducted with the intent to avoid the requirements of Penal Code § 859.5.

(d) The interrogation occurs when no member conducting the interrogation has a reason to believe that the individual may have committed murder. Continued custodial interrogation concerning that offense shall be electronically recorded if the interrogating member develops a reason to believe the individual committed murder.

(e) The interrogation would disclose the identity of a confidential informant or would jeopardize the safety of an investigator, the individual being interrogated, or another individual. Such circumstances shall be documented in a report.

(f) A recording device fails despite reasonable maintenance and the timely repair or replacement is not feasible.

(g) The questions are part of a routine processing or booking, and are not an interrogation.

(h) The suspect is in custody for murder and the interrogation is unrelated to a murder. However, if any information concerning a murder is mentioned during the interrogation, the remainder of the interrogation shall be recorded.

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

410.16 JUVENILE CONTACTS AT SCHOOL FACILITIES

Absent exigent circumstances, investigators should make every reasonable effort to notify responsible school officials prior to contacting a student on campus while school is in session.

(a) Reasonable efforts should be taken to coordinate with school officials to minimize disruption of school functions and maintain a low-profile police presence when contacting a student.

(b) Whenever circumstances warrant the temporary detention or formal interview of a juvenile student on campus, the investigator should:

1. When practical and when it would not unreasonably interfere with the investigation, take reasonable steps to notify a parent, guardian, or responsible adult, including those phone numbers listed on any contact card on file with the school or provided by the student. All efforts to make contact with parents and/or reasons contact was not attempted should be documented.

2. If efforts to contact a parent, guardian or responsible adult are unsuccessful or not attempted, a formal interview with the juvenile may proceed without them.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(c) An adult suspected of child abuse or other criminal activity involving the juvenile, or an adult, who in the opinion of the investigator appears to be under the influence or otherwise unable or incompetent to exercise parental rights on behalf of the juvenile, will not be permitted to be present.

(d) If the investigator reasonably believes that circumstances exist which would materially interfere with the investigator's ability to immediately interview the juvenile, the interview may proceed without the parent or other responsible adult. In such circumstances, the exigent circumstances should be set forth in a related report.

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

(f) Absent exigent circumstances or authority of a court order, investigators shall not involuntarily detain a juvenile who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian. In all such cases investigators should adhere to guidelines and requirements set forth in Policy 330 Child Abuse Reporting.

410.17 FORMAL BOOKING

No juvenile offender shall be formally booked without the authorization of the arresting investigator's supervisor, or in his/her absence, the lieutenant.

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

For all other acts defined as crimes, juveniles may be booked, fingerprinted or photographed upon the approval from the lieutenant or Bureau of Investigation supervisor, giving due consideration to the following:

(a) The gravity of the offense

(b) The past record of the offender

(c) The age of the offender

410.18 RELEASE OF INFORMATION CONCERNING JUVENILES

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

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

410.19 BOARD OF STATE AND COMMUNITY CORRECTIONS CERTIFICATION

The Bureau of Investigation Lieutenant shall coordinate the procedures related to the custody of juveniles held at the Santa Clara County District Attorney's Office, Bureau of Investigation and ensure any required certification is maintained (Welfare and Institution Code § 210.2).

410.20 RELIGIOUS ACCOMMODATION

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Foreign Nationals and Diplomatic Immunity

411.1 PURPOSE AND SCOPE

The United States' Department of State provides specific guidance for law enforcement officers when arresting or detaining a foreign national through their manual entitled "Consular Notification and Access (CNA)." As international relations are subject to change, the purpose of this policy is to direct investigators to the most current protocols available from the U.S. Department of State to properly comply with relevant mandates. The most current version of the manual is available at the following link.

411.2 PROCEDURE (PER THE U.S. DEPARTMENT OF STATE)

(a) Determine the foreign national's country of nationality. Per the U.S Department of State, in the absence of other information, investigators are to assume that the country of nationality is the country on whose passport or other travel document the foreign national is traveling.

(b) Page 4 of the current CNA provides a listing of mandatory notification countries. If the foreign national's country is not on the list of "mandatory notification" countries, investigators are to:

1. Inform the foreign national, without delay, that he or she may have his or her consular officers notified of the arrest or detention and may communicate with them. For a suggested statement in several different languages, see Part Five on pages 73 through 94 of the CNA manual.

2. If the foreign national requests that his or her consular officers be notified, notify the nearest embassy or consulate of the foreign national's country without delay. Foreign embassy and consulate phone numbers, fax numbers and email addresses can be found on the U.S. Department of State's web site at . A suggested notification fax sheet appears on page 95 of the CAN manual.

3. Forward any communication from the foreign national to his or her consular officers without delay.

(c) If the foreign national's country is on the list of "mandatory notification" countries:

1. Notify that country's nearest embassy or consulate, without delay, of the arrest or detention. Phone numbers, fax numbers and email addresses can be found on the U.S. Department of State's web site at travel.state.gov/CNA. You may use the suggested fax sheet on page 95 for making the notification.

2. Tell the foreign national that you are making this notification and inform him or her, without delay, that he or she may communicate with his or her consular officers. A suggested statement to the foreign national in several different languages, appears in Part Five on pages 73 through 94 of the CNA.

3. Forward any communication from the foreign national to his or her consular officers without delay.

(d) Keep a written record of:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

1. Information provided to the foreign national and when provided.
2. The foreign national's requests, if any.
3. Whether consular officers were notified and, if so, the date and time of notification and the means used to make the notification (e.g., fax, phone, or email). If a fax or email was used to notify the consular officers a copy of the fax or email should be retained.
4. Any other relevant actions taken.

Current information regarding Diplomatic Immunity can be found on the US Department of State's website at the following link.

In the event that an arrest or detention of a foreign national requires consular notification and/or involves issues of diplomatic immunity, the investigator shall notify his or her lieutenant without delay. The lieutenant will ensure that appropriate notifications are made and that the Chief Investigator and the District Attorney are notified via the chain of command.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Cite and Release Policy

412.1 PURPOSE AND SCOPE

The release of arrestees by means other than incarceration, when managed through the use of sound discretion and in accordance with established procedures and law, results in substantial savings of county resources. The purpose of this policy is to provide the availability of non-arrest alternatives, which will include the issuing of a criminal citation or a notice to appear in lieu of physical arrest and booking, both for on-view misdemeanor and misdemeanor warrant arrests, when appropriate. This policy is specific to Santa Clara County, thus outside county criteria may differ and should be considered when determining non-arrest alternatives

412.2 POLICY

It is the policy of the Santa Clara County District Attorney's Office, Bureau of Investigation to release all persons arrested on misdemeanor or other qualifying charges on a citation with certain exceptions (Penal Code § 853.6).

If there is a reason for non-release, the Bureau of Investigation's mission to protect the community will be the primary consideration when determining whether to release any individual in lieu of holding for court or bail.

412.3 PROCEDURE

412.3.1 RELEASE BY CITATION

Except in cases where a reason for non-release as described below exists, adults arrested for a misdemeanor offense, including a private persons arrest, shall be released from custody on a citation (Penal Code § 853.6).

The citing investigator shall, at the time the defendant signs the notice to appear, call attention to the time and place for appearance and take any other steps he/she deems necessary to ensure that the defendant understands his/her written promise to appear.

412.3.2 WARRANT OF ARREST FOR MISDEMEANOR OFFENSE

An adult arrested on a misdemeanor warrant may be released, subject to lieutenant approval, unless any of the following conditions exist:

(a) The misdemeanor cited in the warrant involves violence.

(b) The misdemeanor cited in the warrant involves a firearm.

(c) The misdemeanor cited in the warrant involves resisting arrest.

(d) The misdemeanor cited in the warrant involves giving false information to a peace investigator.

(e) The person arrested is a danger to him/herself or others due to intoxication or being under the influence of drugs or narcotics.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

(f) The person requires medical examination or medical care or was otherwise unable to care for his/her own safety.

(g) The person has other ineligible charges pending against him/her.

(h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.

(i) The person refuses to sign the notice to appear.

(j) The person cannot provide satisfactory evidence of personal identification.

(k) The warrant of arrest indicates that the person is not eligible to be released on a notice to appear.

Release under this section shall be done in accordance with the provisions of this policy.

This policy further restricts the list above as follows:

(a) The person has a warrant with a bail amount of $15,000 or more. (The $15,000 bail amount is for an individual warrant. Multiple warrants with a cumulative total of more than $15,000 would not apply absent other criteria requiring booking).

(b) The offense involves domestic violence, specifically Penal Code Sections 273.5, 242-243(e)(1), 273.6, 166(a)(4), or 646.9.

(c) The charge is a probation violation, Penal Code Sections 1203.2(a)/(b).

(d) The warrants include three or more failure to appears (Vehicle Code Section 40508(a) or described in the description of charges).

(e) The warrant is stamped "No Citation" and/or "No Bail."

Out of County Misdemeanor Warrants

(a) The same conditions and criteria apply to out of county warrants, unless the other county specifically requests the warrant be handled in another manner. (e.g. Out of county warrant above $15,000 but that county confirms only for cite and release, the subject must be cited based on that county's criteria).

Procedure for Misdemeanor Warrant Notice to Appear

(a) Investigators will adhere to the above guidelines when determining whether to cite and release on a warrant. Investigators will then have the warrant confirmed through County Communications and determine the following:

1. Warrant number and charges
2. Court Date
3. Court address
4. Court telephone number
5. Whether booking is required

(b) Investigators shall then complete the District Attorney's Office Notice to Appear form. Each form can be used for multiple warrants as long as the warrants are from the same

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

issuing facility (Court). Otherwise, each warrant needs to be on a separate Notice to Appear form.

1. County Communications will generate an event number for the warrant citation. This number should be placed in the "Case Number" box on the upper right corner. Only one event number is necessary, per arrestee, even if several citations are issued.
2. If booking is required, circle "Yes" under booking required and explain the booking requirement (detailed on the back of the form).
3. Obtain both thumbprints on the back of the white, canary, and pink copies of the Notice to Appear form.
4. After completing the Notice to Appear form, distribute the copies accordingly (see bottom of form for distribution list).

412.3.3 ON-VIEW ARREST FOR MISDEMEANOR OFFENSE

Per Penal Code Section 853.6, any person arrested for a misdemeanor, including a violation of any city or county ordinance considered a criminal misdemeanor, shall be released unless the following conditions exist:

(a) Ineligibility for cite and release:

1. The arrestee demands to see a magistrate or refuses to sign the Notice to Appear.
2. The case involves domestic violence. Specifically, the Penal Code Sections listed within Penal Code Section 1270.1, including Penal Code Sections 136.1 (felony), 262, 273.5, 243(e)(1), 273.6, 422 (felony), and 646.9.
3. The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others.
4. The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety.
5. The person was arrested under one or more of the circumstances listed in California Vehicle Code Sections 40302 (Mandatory Appearance), including Vehicle Code 23152, or 40303 (Optional Appearance before a Magistrate).
6. The person could not provide satisfactory evidence of personal identification.
7. The prosecution of the offense(s) would be jeopardized by the immediate release of the person arrested.
8. There was a reasonable likelihood that the offense(s) would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested.
9. There is reason to believe that the person would not appear at the time and place specified in the notice.
10. There were one or more outstanding warrants for the person.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

11. The person is charged with a probation violation, Penal Code Sections 1203.2(a) or (b).

(b) If a person is not eligible for cite and release and is subsequently booked for a misdemeanor, document on the pre-booking form the reason why the person was not eligible (box labeled "853.6 PC" on the front of the form – numerical definitions are on the reverse of the form).

412.3.4 FIELD CITATIONS

In most cases an adult arrested for a misdemeanor offense may be released in the field on a citation in lieu of physical arrest when booking and fingerprinting is not practicable or immediately required provided the individual can be satisfactorily identified, there is no outstanding arrest warrant for the individual and none of the below described disqualifying circumstances are present (Penal Code § 853.6; Penal Code § 1270.1). In such cases the arresting investigator should check the booking required box on the citation form to indicate that the person will be photographed and fingerprinted at a later time when ordered by the court.

When a booking photo or fingerprints are needed for the furtherance of any investigation, the person should be released on citation after booking instead of on a field citation.

412.3.5 RELEASE AFTER BOOKING

In some cases it may not be feasible or desirable to release a person in the field. The person should instead be released on citation after booking at the jail. All bookings shall be approved by the lieutenant or the authorized designee.

412.3.6 PROCEDURE FOR IN-FIELD MISDEMEANOR CITE AND RELEASE

(a) Investigators will adhere to the above guidelines when determining whether to cite and release. Investigators will then complete the following steps:

1. Complete an "D" citation for the arrestee
2. Obtain an event number from County Communications. Note: "Case No." is the BOI file number on an ongoing case. If it is a new on-view offense, use the County Communications event number as the reference.
3. Obtain a court date from County Communications for the type of violation and location of the incident.
4. Records will also determine if pre-booking is required for the specific offense cited. If pre-booking is required, check the box on the citation and explain the pre-booking process.
5. Obtain the arrestee's thumbprints on the reverse of the white copies (court and records).
6. Give the arrestee his or her copy of the citation.
7. Have the citation booking information added to CJIC by the JBAI authorized users.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

8. Complete a Crime Report to document the misdemeanor arrest.
9. Create a citation packet for the Charging Unit's review to include:
    (a) Court copy of the citation
    (b) A copy of the citatio
    (c) A copy of the Crime Report
    (d) Suspect's criminal history printout (JPQH, CII and III)
    (e) DMV printout if a driving offense is part of the charges on the citation

(b) In the unusual instance when an investigator believes physical booking is more appropriate than a cite and release, however the criteria above have not been met, prior approval by a supervisor is required before booking. The circumstances must be documented and articulated in the Crime Report.

412.3.7 BOOKING AND CITE AND RELEASE VIOLATIONS COMBINED

When investigators book an adult subject into the County Jail, the subject shall be booked for all charges and a citation or notice to appear should not be used. For example, if a suspect has a bookable warrant and an on-view misdemeanor charge, which would be citable under other conditions, the subject should be booked for both and Penal Code Section 853.6(4) would be selected as the reason for booking on the pre-booking form.

412.4 NON-RELEASE

412.4.1 DISQUALIFYING OFFENSES

An adult arrested on any of the following disqualifying charges shall not be released on citation and shall be transported to the appropriate detention facility or held for court or bail after booking (Penal Code § 1270.1):

(a) Misdemeanor domestic battery (Penal Code § 243(e)(1))

(b) Felony domestic battery (Penal Code § 273.5)

(c) Serious or violent felonies (Penal Code § 1270.1(a)(1))

(d) Felony intimidation of witnesses and victims (Penal Code § 136.1)

(e) Rape of a spouse (Penal Code § 262)

(f) Violation of a protective order and the arrested person has made threats, used violence, or has gone to the protected person's workplace or residence (Penal Code § 273.6)

(g) Stalking (Penal Code § 646.9)

(h) Misdemeanor violations of a protective order relating to domestic violence if there is a reasonable likelihood the offense will continue or the safety of the individuals or property would be endangered (Penal Code § 853.6)

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

412.4.2 REASONS FOR NON-RELEASE

A person arrested for a misdemeanor shall be released on a citation unless there is a reason for non-release. The lieutenant may authorize a release on citation regardless of whether a reason for non-release exists when it is determined to be in the best interest of the Bureau and does not present an unreasonable risk to the community (e.g., release of an intoxicated or ill person to a responsible adult).

Reasons for non-release include (Penal Code § 853.6(i)):

(a) The person arrested is so intoxicated that he/she could be a danger to him/herself or to others. Release may occur as soon as this condition no longer exists.

(b) The person arrested requires medical examination or medical care or is otherwise unable to care for his/her own safety

1. The Santa Clara County District Attorney's Office, Bureau of Investigation shall not release an arrestee from custody for the purpose of allowing that person to seek medical care at a hospital, and then immediately re-arrest the same individual upon discharge from the hospital, unless the hospital determines this action will enable it to bill and collect from a third-party payment source (Penal Code § 4011.10).

(c) The person is arrested for one or more of the offenses listed in Vehicle Code § 40302, Vehicle Code § 40303, and Vehicle Code § 40305.

(d) The person has been cited, arrested, or convicted for theft from a store or vehicle in the previous six months, or there is probable cause to believe the person is guilty of committing organized retail theft, as defined in Penal Code § 490.4(a).

(e) There are one or more outstanding arrest warrants for the person or failures to appear in court on previous misdemeanor citations that have not been resolved (see Misdemeanor Warrants elsewhere in this policy).

(f) The person could not provide satisfactory evidence of personal identification.

1. If a person released on citation does not have satisfactory identification in his/her possession, a right thumbprint or fingerprint should be obtained on the citation form.

(g) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by the immediate release of the person arrested.

(h) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by the release of the person arrested.

(i) The person arrested demands to be taken before a magistrate or has refused to sign the notice to appear.

(j) There is reason to believe that the person would not appear at the time and place specified in the notice to appear. The basis for this determination shall be specifically documented. An arrest warrant or failure to appear that is currently pending shall

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

constitute reason to believe that the person will not appear. Other reasons may include:

1. Previous failure to appear is on record
2. The person lacks ties to the area, such as a residence, job, or family
3. Unusual circumstances lead the investigator responsible for the release of prisoners to conclude that the suspect should be held for further investigation

When a person is arrested on a misdemeanor offense and is not released by criminal citation, the reason for non-release shall be noted on the booking form. This form shall be submitted to the lieutenant for approval and included with the case file in the Records Section.

412.5 JUVENILE CITATIONS

Completion of criminal citations for juveniles is generally not appropriate with the following exceptions:

- Misdemeanor traffic violations of the Vehicle Code
- Violations of the Santa Clara County County codes

All other misdemeanor violations for juveniles shall be documented with a case number and the case should be referred to the Bureau of Investigation for further action including diversion.

412.6 REQUESTING CASE NUMBERS

Many cases involving a criminal citation release can be handled without requesting a case number. Traffic situations and local code violations can be documented on the reverse side of the records copy of the citation. Most Penal Code sections will require a case number to document the incident properly in a report. This section does not preclude an investigator from requesting a case number if he/she feels the situation should be documented more thoroughly in a case report.

412.7 REFERENCES

- Penal Code Sections 827.1, 853.6 through 853.8 (inclusive)
- Vehicle Code Sections 40302, 40303 and 40304.5

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Vehicle Pursuits

413.1 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 investigators 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 investigators to exhibit a high degree of common sense and sound judgment. Investigators must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing investigators.

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 investigator or supervisor (Supervising Criminal Investigator or higher) 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.

Investigators must remember that the most important factors to the successful conclusion of a pursuit are proper self-discipline and sound professional judgment. Investigator's conduct during the course of a pursuit must be objectively reasonable; that is, what a reasonable investigator 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.

413.2 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 an investigator's signal to stop.

413.3 INVESTIGATOR 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. Given that Bureau investigators operate unmarked police vehicles with limited code-three lighting, extraordinary care shall be given when deciding whether or not to initiate a pursuit. Should a pursuit be initiated, investigators shall make an immediate request for marked-unit assistance via County Communications or other relevant law enforcement dispatch centers. Such pursuit shall be relinquished to the first available marked police unit.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

The following policy is established to provide investigators with guidelines for driving with due regard and caution for the safety of all persons using the highway as required by Vehicle Code § 21056.

413.4 WHEN TO INITIATE A PURSUIT

Investigators are authorized to initiate a pursuit when it is reasonable to believe that a suspect is attempting to evade arrest or detention by fleeing in a vehicle and the investigator has reasonable cause to believe that the suspect(s) being pursued has committed a crime which resulted in great bodily harm to another or which threatened great bodily harm to another, and the continued freedom of the suspect(s) would create an imminent threat to public safety.

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 investigators, 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 investigators familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing investigators under the conditions of the pursuit.

(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 bureau unit is carrying passengers other than bureau investigators. Pursuits should not be undertaken with a prisoner in the police vehicle.

(m) Pursuits shall not be initiated for misdemeanor violations only.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

413.5 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 investigator or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect(s)' escape.

The factors listed in "When to Initiate a Pursuit", § 413.4 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. Investigators 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 § 413.4 of this policy, the following factors should also be considered in deciding whether to terminate a pursuit:

(a) Distance between the pursuing investigators 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) Investigator's pursuit vehicle sustains any type of damage that renders it unsafe to drive.

(d) There are hazards to uninvolved bystanders or motorists.

(e) 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, investigators should strongly consider discontinuing the pursuit and apprehending the offender at a later time.

(f) When helicopter support is available the pursuing unit shall relinquish control of the pursuit to the helicopter.

(g) Pursuit is terminated by a supervisor.

413.6 SPEED LIMITS

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the investigator and supervisor. Evaluation of vehicle speeds 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, investigators 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 investigator.

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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

413.7.1 VEHICLES WITHOUT EMERGENCY EQUIPMENT

Vehicles not equipped with red light and siren are prohibited from initiating or joining in any pursuit. Investigators in such vehicles, however, may become involved in emergency activities involving serious crimes or life threatening situations. Those investigators 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 investigators using vehicles without emergency equipment.

413.7.2 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 investigator 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.

(h) Notifying the California Highway Patrol and/or other jurisdictional agency if it appears that the pursuit may enter their jurisdiction.

Unless relieved by a supervisor or secondary unit, the investigator 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 investigator should

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft joining the pursuit.

413.7.3 SECONDARY UNITS RESPONSIBILITIES
The second investigator in the pursuit is responsible for the following:

(a) The investigator 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 investigator, or if the primary unit is unable to continue the pursuit.

(c) The secondary investigator should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise.

413.8 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) Investigators, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles such that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.

(b) Because intersections can present increased risks, the following tactics should be considered:

1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
2. Pursuing units should exercise due caution when proceeding through controlled intersections.

(c) As a general rule, investigators 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.
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 suspect(s).

(d) Notifying the California Highway Patrol (CHP) and/or other jurisdictional agency if it appears that the pursuit may enter their jurisdiction.

(e) Investigators involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or they are requested to do so by the primary unit.

413.8.1 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT
There should be no paralleling of the pursuit route. Investigators are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

traffic to protect the public. Investigators should remain in their assigned area and should not become involved with the pursuit unless directed otherwise by a supervisor.

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.

413.8.2 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.

413.8.3 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 investigators and supervisors 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.

413.9 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 investigators from this department.

In the event that a Bureau supervisor in unavailable, the pursuing investigator will ensure that a supervisor from the local law enforcement agency having jurisdiction is apprised of the pursuit, the reason for the pursuit, speeds involved, the number of investigators involved in the pursuit, traffic conditions and any other relevant information. The pursuing investigator will request that a local law enforcement agency supervisor assume oversight of the pursuit until the pursuit is terminated or command is assumed by a Bureau of Investigation supervisor. For purposes of this policy, a "supervisor from a local law enforcement agency" means a police officer or sheriff deputy with a rank of sergeant or higher.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

The BOI supervisor (or local agency supervisor if the BOI supervisor is not available) of the investigator initiating the pursuit 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 police 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 BOI units when a pursuit enters another jurisdiction.

(j) Preparing post-pursuit critique and analysis of the pursuit for training purposes.

413.9.1 LIEUTENANT RESPONSIBILITY

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

The lieutenant shall review all pertinent reports for content and forward to the Lieutenant.

413.10 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.

413.10.1 COMMUNICATION CENTER RESPONSIBILITIES

Upon notification that a pursuit has been initiated, Dispatch will:

(a) Coordinate pursuit communications of the involved units and personnel.

(b) Notify and coordinate with other involved or affected agencies as practicable.

(c) Ensure that a field supervisor is notified of the pursuit.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(d) Assign an incident number and log all pursuit activities.

(e) Broadcast pursuit updates as well as other pertinent information as necessary.

(f) Notify the lieutenant as soon as practicable.

413.10.2 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.

413.11 INTER-JURISDICTIONAL CONSIDERATIONS

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

413.11.1 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 Santa Clara County District Attorney's Office, Bureau of Investigation 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 investigators 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. Because of communication limitations between local agencies and CHP units, a request for CHP assistance will mean that they will assume responsibilities for the pursuit. For the same reasons, when a pursuit leaves the freeway and a request for assistance is made to this department, the CHP should relinquish control.

413.11.2 PURSUITS EXTENDING INTO THIS JURISDICTION

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this department shall not join a pursuit.

413.12 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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

shall be construed to mean maneuvering the bureau unit into contact with the pursued vehicle to mechanically disable or forcibly position it such that further flight is not possible or practicable.

413.12.1 WHEN USE IS AUTHORIZED

Use of pursuit intervention tactics (PIT) should be employed only by investigators whom have received specific Bureau "behind-the-wheel" training in such tactics and after approval of a Bureau supervisor. In deciding whether to use intervention tactics, investigators/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 investigators 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 investigator at the time of the decision.

Nothing in this policy should prohibit an investigator from requesting another agency trained in Pursuit Intervention Tactics from employing such tactics (e.g. in deploying spike or tack strips). Such requests shall be approved by the agencies' supervisor prior to the tactic being employed.

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

413.12.2 DEFINITIONS

Behind the Wheel Training (BWT) - BWT is pursuit driver training conducted in a vehicle in conformance with POST pursuit driving standards and by POST certified driving instructors as approved by the Bureau of Investigation.

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.

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.

413.12.3 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. Investigators shall not utilize firearms during an

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

ongoing pursuit as a means to disable a suspect vehicle. Nothing in this section shall be construed to prohibit any investigator from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

Nothing in this section shall be construed to prohibit any investigator from using a firearm during circumstances as defined in Policy and Procedure 405 "Moving Vehicles."

413.12.4 INTERVENTION STANDARDS

Any pursuit intervention tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the investigators, the public or anyone in or on the vehicle being pursued. Certain applications of intervention tactics may be construed to be a use of deadly force and subject to the requirements for such use. Investigators 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 investigators reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved, this technique should only be employed by investigators 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, investigators, 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.
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 investigators trained in the use of the Pursuit Intervention Technique (PIT) by this Bureau 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 investigators, the public and occupants of the pursued vehicle.

(c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the investigator'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 investigators 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.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

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 investigators 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 investigators, 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. Investigators should carefully consider the limitations of such devices as well as the potential risks to investigators, 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, investigators and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.

(f) Because 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 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, investigators or other members of the public.

413.13 CAPTURE OF SUSPECTS

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

Unless relieved by a supervisor, the primary investigator should coordinate efforts to apprehend the suspects following the pursuit. Investigators should consider safety of the public and the involved investigators when formulating plans to contain and capture the suspects.

413.14 REPORTING REQUIREMENTS

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

(a) The primary investigator should complete appropriate crime/arrest reports.

(b) The lieutenant shall ensure that an Allied Agency Vehicle Pursuit Report (form CHP 187A) is filed with the CHP not later than 30 days following the pursuit (Vehicle Code § 14602.1). The primary investigator should complete as much of the required information on the form as is known and forward the report to the lieutenant for review and distribution.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(c) After first obtaining the available information, a field supervisor shall promptly complete a Supervisor's Log, briefly summarizing the pursuit, and submit it to his/her manager. This log should minimally contain the following information:

1. Date and time of pursuit
2. Length of pursuit
3. Involved units and investigators
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
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

413.15 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 investigators and others (Vehicle Code § 17004.7(d)).

413.16 POLICY REVIEW

Each sworn member of this department shall certify in writing that they have received, read and understand this policy initially and upon any amendments.

413.17 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.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Use of Red Light and Siren/Emergency Response

414.1 PURPOSE AND SCOPE

Emergency equipment (red light and siren) will be activated and displayed only for a legitimate law enforcement purpose.

Bureau investigators, who are peace officers as defined in Penal Code § 830.1, are authorized to display/activate red light and siren for the following purpose:

- To effect a vehicle stop or to effect a pedestrian stop for a lawful purpose within the scope of employment and duties;
- During a vehicle pursuit - only as authorized by Policy and Procedure 314;
- To expedite a response to a request for emergency assistance by other peace officers or a law enforcement agency (e.g., request for a code 3 fill or a code 30), or when responding to an emergency call for service.

Investigators are reminded that Vehicle Code § 21055 provides exemption for the "rules of the road" only if a siren is being sounded as may be reasonably necessary and a red light is being displayed. Investigators are further reminded that Vehicle Code § 21055 "does not relieve the driver of a vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor protect him from the consequences of an arbitrary exercise of the privileges granted in that section." (Vehicle Code § 21056)

Any Bureau employee who is not a peace officer as defined in Penal Code § 830.1 is **not** authorized to display/activate a red light or siren during the driving of any Bureau vehicle.

414.2 PROCEDURE

Investigators shall exercise sound judgment and care with due regard for life and property when effecting a vehicle or pedestrian stop, when engaged in a vehicle pursuit (see PPM 413), when responding to a request for emergency assistance or when responding to an emergency call.

An investigator intending to effect a vehicle or pedestrian stop will advise County Communications ("Communications") of the location of the stop, the license number or description of the vehicle being stopped, or a description of the person being stopped. Should the pedestrian or driver be female, the appropriate radio code of 1195-X or 1095-X shall be used. The investigator will update Communications with appropriate information concerning the disposition of the stop and when clearing the stop.

Should an investigator receive authorization from a supervisor or determine that a Code-3 response to an event is appropriate; an investigator shall immediately give their location and response code to Communications and advise where he/she is responding.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

As necessary, investigators shall reduce speed at all street intersections to such a degree that they shall have complete control of their vehicle and can complete safe passage. The decision to continue a Code-3 response is at the discretion of the investigator unless otherwise directed by a supervisor. If, in the investigator's judgment, the roadway conditions or traffic congestion does not permit such a response without unreasonable risk, the investigator should elect to respond to the event without the use of red lights and siren at the legal speed limit. Should this occur, the investigator will immediately notify Communications when radio traffic allows, or switch to another radio channel, as appropriate.

Upon arrival at the scene of the event the investigator will notify Communications. Appropriate situational updates to Communications will be made and Communications will be notified when the investigator terminates his/her involvement in the incident and clears the scene.

414.3 TESTING OF EQUIPMENT

This policy is not intended to preclude investigators from periodically testing their vehicular emergency equipment to ensure proper functioning. This testing, however, should be done in a somewhat remote area away from normal traffic patterns.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Notification of Security Alerts

415.1 PURPOSE AND SCOPE

It is the policy of the Bureau of Investigation to notify all District Attorney employees of possible hazardous situations that may occur in the workplace. The Bureau of Investigation will use available communication technologies and provide appropriate information regarding these situations in a timely and secure manner.

415.2 PROCEDURE

The following procedure will be followed whenever a Criminal Investigator determines that an event has occurred or has received information regarding a credible potential hazard relating to the Office of the District Attorney, its employees and facilities.

- Complete a Bureau of Investigation memo containing information regarding the hazard that has been determined appropriate for general distribution to all District Attorney employees.
- Obtain approval from a Senior Investigator or Lieutenant to distribute the informational memo to all District Attorney employees.
- Create a "Security Alert" to all District Attorney employees as follows:
    - **Click** on "O365-dao-Security Alerts" in Office 365 Outlook to access a security alert group message.
    - **Click** on "New Conversation" to create a message to the Security Alerts Group.
    - **Complete** the "CC" line with "DAO-SCDANET" to send the alert to all District Attorney Employees' email box.
    - **Complete** the "Subject" line to include**:** Last Name, First Name, PFN and/or age of the person of interest, if appropriate.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Bomb Threats

416.1 PURPOSE AND SCOPE

These guidelines have been prepared to assist investigators in their initial response to incidents involving threats of explosives, explosive devices, or explosion/bombing incidents. Under no circumstances should these guidelines be interpreted as compromising the safety of first responders or the public. When confronted with an incident involving explosives, safety shall always be the primary consideration.

416.2 PROCEDURE

416.2.1 FOUND EXPLOSIVES/SUSPECT DEVICES

When handling an incident involving a suspected explosive device at the West Wing of the Government Center, the following guidelines should be followed:

(a) No known or suspected explosive item should be considered safe regardless of its size or apparent packaging. The appropriate bomb squad or military explosive ordnance disposal team should be summoned for assistance.

(b) A minimum perimeter of 300 feet should be established around the device. An access point should be provided for support personnel.

(c) As much information as is available should be promptly relayed to the Operations Officer including:

1. The stated threat.
2. Exact comments.
3. Time of discovery.
4. Exact location of the device.
5. Full description (e.g. size, shape, markings, construction) of the device.

(d) The device should not be touched or moved except by qualified bomb squad personnel.

(e) All equipment within 50 feet of the suspected device capable of producing radio frequency energy should be turned off. This includes two-way radios, cell phones and other personal communication devices.

(f) Consideration should be given to evacuating any buildings near the device.

(g) A search of the area should be conducted for secondary devices or other objects that are either hazardous or foreign to the area and a perimeter should be established around any additional suspicious device found.

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

416.3 EXPLOSION/BOMBING INCIDENTS

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

(a) Establish a command post in a suitable location.

(b) Coordinate response with uniformed emergency response personnel.

(c) Assess the scope of the incident, including the number of victims and extent of injuries.

(d) Assist with first aid (Fire Department has primary responsibility).

(e) Assist with evacuation of victims (Fire Department has primary responsibility).

(f) Identify and take appropriate precautions to mitigate scene hazards such as collapsed structures, blood borne pathogens, hazardous materials and secondary explosive devices.

(g) Request additional resources as needed.

(h) Identify witnesses.

(i) Preserve evidence.

416.4 NOTIFICATIONS

When an explosion has occurred, the following people shall be notified as soon as practical:

(a) San Jose Fire Department

(b) Santa Clara County Sheriff's Office

(c) San Jose Police Department

(d) District Attorney / Designee

(e) Chief Investigator / Captain

(f) Operations Officer

(g) Duty Officer

416.5 CROWD CONTROL

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

416.6 SCENE MANAGEMENT

As in any other crime scene, steps should immediately be taken to preserve the scene. Investigators should consider that the scope of the crime scene will be dependent upon the size of the incident and that care should be taken to establish a perimeter which encapsulates the event.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

416.7 BOMB THREAT

When informed of a bomb threat, Bureau staff shall immediately notify the Duty Officer. The Duty Investigator will immediately notify the Operations Officer. The Duty Investigator will then obtain information concerning the threat to minimally include: who received the threat, the time of the threat, how the threat was communicated, the exact wording of the threat, and what action had been taken. If a recording of the communication was made, the Duty Investigator shall take possession of the recording and secure it as evidence. If the threat was made through a note or letter, the writing shall be secured.

The Operations Officer will immediately notify the Chief Investigator and Facility Manager. In the absence of the Chief Investigator, the Operations Officer will notify the senior Command Officer present at the facility. The senior Command Officer will assume command of the incident. The Operations Officer will notify the Santa Clara County Sheriff's Department and request response, if directed to do so.

The Chief Investigator or senior Command Officer will notify the District Attorney and the Chief Assistant District Attorney.

In the event that a command post is established, it will be situated at a suitable location. Any responding emergency services personnel will be informed of the command post location and directed to arrive at that site.

The Operations Officer will assemble all available investigators at the command post for assignment. The Operations Officer will remain at the command post to coordinate Bureau response.

The level of response will be based upon the nature and content of the threat.

In the event that an item of a suspicious nature is located, electronic communications devices (cell phone, radio, etc.) shall not be used within 50 feet of the object.

416.8 IMMEDIATE EVACUATION

Over the office intercom, employees will be notified of the threat and instructed to quickly check immediate work areas for suspicious items and then leave the building. Investigators may be asked to quickly walk through all the floors ensuring that all employees received the evacuation instruction, to assist with the orderly evacuation, and to quickly check all public areas for any suspicious items noting only description and location of any such item. **Do not touch or disturb a suspicious item.** Notify the Operations Officer or Sheriff's Department of the item.

Investigators will assemble at the command post to further assist as deemed appropriate.

416.9 THREAT ASSESSMENT TEAM

A threat assessment team may be assembled to determine action to be taken. The assessment team generally consists of administrative staff and all facility managers affected. The assessment team may order an evacuation of the entire West Wing or 70 West Complex or the assessment team may order a facility search without evacuation.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

416.10 FACILITY SEARCH WITHOUT EVACUATION

Employees will be asked to search their immediate work areas for anything suspicious. After searching their own work areas, investigators will be asked to tour the floors repeating these instructions to employees and to receive information of any suspicious item.Investigators will search all public areas inside the facility and around the outside perimeter of the facility. The delivery ramp area will be examined thoroughly and parking patrol will be asked about the presence of any unusual vehicle(s). Business Services may be asked to assist with the search of the storage area under the admin parking lot.

In the event that a time of detonation is specified, any searches will be concluded by no later than 15 minutes prior to the time provided.

After completing assigned floor areas and search areas, investigators will report to the command post.

The Duty Officer will ensure that all known information is communicated to the Sheriff's Department and will assist the assigned responders as needed and appropriate. The Duty Officer will obtain a Bureau case number and complete a report of the incident.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Disaster Plan

417.1 PURPOSE AND SCOPE

The District Attorney's Office has prepared an Emergency Management Plan Manual entitled "Office of the District Attorney Continuity of Government Plan" or "COG", for use by all District Attorney employees in the event of a major disaster or other emergency event. The manual provides for a strategic response by all employees and assigns specific responsibilities in the event the plan is activated.

417.2 ACTIVATING THE EMERGENCY PLAN

The Emergency Management Plan can be activated by the following individuals:

- The County Emergency Services Director, as delineated in the Santa Clara County Emergency Plan, in the event of a major disaster such as an earthquake.
- The District Attorney, or his designee, in the event of a limited emergency such as a fire at one of our facilities.

417.2.1 RECALL OF PERSONNEL

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

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

417.3 LOCATION OF MANUALS

The manual for the employees is available in the Training Unit and on the "L" drive in the folder marked "COG." All supervisors should familiarize themselves with the Emergency Management Plan and what roles police personnel will play when the plan is implemented.

417.4 UPDATING OF MANUALS

The Chief Investigator or designee shall review the COG Plan annually to ensure that the manual is up-to-date as to Bureau personnel and assignments. Updates shall be forwarded to the District Attorney or designee.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Hazardous Material Response

418.1 PURPOSE AND SCOPE

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

418.2 HAZARDOUS MATERIAL DEFINED

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

418.3 HAZARDOUS MATERIAL RESPONSE

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

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

(a) Attempt to identify the type of hazardous substance. (Identification can be determined by placard, driver's manifest or statements from the person transporting).

(b) Notify the Fire Department.

(c) Notify the local law jurisdiction

(d) Provide first-aid for injured parties if it can be done safely and without contamination.

(e) Begin evacuation of the immediate area and surrounding areas, depending on the substance. Voluntary evacuation should be considered; however, depending on the substance, mandatory evacuation may be necessary.

(f) Notify the local health authority. Such notification is mandatory when a spilled or released item is a pesticide (Health and Safety Code § 105215).

(g) Notify the Department of Toxic Substances Control. This is mandatory when an investigator comes in contact with, or is aware of, the presence of a suspected hazardous substance at a site where an illegal controlled substance is or was manufactured (Health and Safety § 25354.5).

(h) It is the responsibility of the facility owner/responsible party to notify the California Office of Emergency Services (CalOES) Health and Safety § 25510. A responding fire department will also typically make a notification to CalOES of a release.

If neither a responsibly party or fire department representative notified CalOES, then call CalOES at (800) 852-7550 with the following information:

1. Identity of the caller

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

2. Exact location, date, time of spill, release or threatened release
3. Location of threatened or involved waterway or storm drains
4. Substance, quantity involved, and isotope if necessary
5. Chemical name (if known, it should be reported if the chemical is extremely hazardous)
6. Description of what ocurred

(i) Follow the guidelines in set forth in PPM 602 - Evidence and Storage regarding the collection, handling, and storage of hazardous materials.

418.4 REPORTING EXPOSURE(S)

Department personnel who believe that they have been exposed to a hazardous material shall immediately report the exposure to a supervisor. Each exposure shall be documented by the employee on a WC-1 form, Employer's Report of Occupational Injury, and on a crime or incident report, as appropriate. Documentation of the exposure, illness, or injury shall be forwarded via chain of command to the Chief Investigator. Should the affected employee be unable to document the exposure for any reason, it shall be the responsibility of the notified supervisor to complete the WC-1 form and relevant report documents.

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

418.4.1 SUPERVISOR RESPONSIBILITY

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

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Chapter 5 - Investigation Operations

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Initiation of Investigations

500.1 PURPOSE AND SCOPE

Investigations conducted by the Bureau of Investigation will be initiated by the District Attorney or designees, Deputy District Attorneys as approved by a Supervising Deputy District Attorney, the Chief Investigator, the Captain, or Supervising Investigators/Team Leaders. Investigators will not initiate investigations without the approval of their unit supervisor/team leader. Investigators may obtain preliminary information needed to determine if an investigation is warranted.

Investigators may initiate an "on-view" investigation when life or property is in peril or when assigned to a unit or task force in which self-initiated "on-view" investigations are a requirement of the assignment.

The Investigation Request (IR) form or the Request for Service (RFS) form will be used to initiate and to generate Bureau investigations.

500.2 PROCEDURE

Investigation Requests submitted to or created by the Bureau shall be given to the Bureau clerical staff. Clerical will then input the incoming Investigation Request information on the "Log Subpoena_IR Received" spreadsheet for the appropriate year, and then sign their initials and the current date on the upper right hand corner of the first page of the request. Clerical will then query the case management system to ascertain if there is an investigation file (active or closed) concerning this case.

(a) **If no record of the investigation exists in the case management system**

1. Clerical will give the Investigation Request form to the appropriate unit supervisor/team leader, based upon the nature and case type of the investigation. The unit supervisor/team leader will review the request and evaluate the nature of the request and the appropriateness of the request.
2. The unit supervisor/team leader will ensure that sufficient information is contained within the Investigation Request in order to allow for entry into the case management system. The unit supervisor / team leader is responsible for identifying the nature or case type of the Investigation Request and subsequent investigation.

(b) **If an investigation file exists, Clerical should make note of the file number on the Investigation Request**

1. If the file is **active** :

   (a) The unit supervisor/team leader will ensure that sufficient information is contained within the Investigation Request form to allow for entry into the case management system. The unit supervisor/team leader is responsible for identifying the nature or case type of the Investigation Request and subsequent investigation.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

(b) Clerical will check the case management system to identify to whom the file is logged out to based on the "File Location," and will make a note of the location on the Investigative Request form for the unit supervisor/ team leader. Clerical will then give the Investigation Request form to the appropriate unit supervisor/ team leader.

2. If the file is **closed** :

(a) The unit supervisor/team leader will ensure that sufficient information is contained within the Investigation Request in order to allow for entry into the case management system. The unit supervisor/team leader is responsible for identifying the nature or case type of the Investigation Request and subsequent investigation

(b) Clerical will retrieve the file from the BOI file room, attach the Investigation Request form to the outside front of the file, give it to the appropriate unit supervisor/team leader, and log the file out to the supervisor/team leader in the "File Location" field of the case in the case management system.

After reviewing the Investigative Request, the unit supervisor/team leader shall initial the Investigative Request form and assign the case to an investigator by noting the assigned investigator's name on the form. The unit supervisor/team leader will then re-submit the IR to Clerical.

If a current file **does not** exist, Clerical will assign the Investigation Request a new investigation number. The appropriate entries will then be made in the case management system for tracking purposes. Clerical will then create an investigation file and forward the file to the assigned investigator. Copies of the Investigation Request form will then be distributed as directed on the form.

If a current file **does** exist and is not currently in the possession of an investigator, the unit supervisor/team leader will return the file along with the Investigation Request form to Clerical, who will re-activate the case in the case management system. If the file is currently with an investigator, the unit supervisor/team leader will return the Investigation Request form to Clerical without the file. The appropriate entries will be made into the case management system. Clerical will then give the file and/or Investigation Request packet to the assigned investigator. Copies of the Investigation Request form will be distributed as directed on the form.

When two or more investigators are assigned to participate in the same investigation, only one file will be created. It will be the responsibility of the assigned investigators to share the file and to ensure that all paperwork will be placed in the file by each investigator. All assigned investigators will ensure that all other investigators participating in the investigation are kept informed of the progress and developments within the supplemental case assignments. The primary investigator will inform the deputy district attorney prosecuting the case about the results of the assigned casework.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Investigators are responsible for the maintenance, retention, and security of all investigation files from the time received until the file is submitted to the unit supervisor for closure.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Case Integrity

501.1 PURPOSE AND SCOPE

Bureau employees will commit no act or omission that could be reasonably foreseen as being detrimental or adverse to the successful prosecution of a criminal case or litigation of a civil action by this office. Bureau employees shall remain cognizant of related Policy and Procedure Manual Sections 303, Conflict of Interest, and 305, Standards of Conduct.

501.2 PROCEDURE

Bureau employees shall not socialize with, enter into business transactions with, borrow from, accept favors from, do favors for, or fraternize with any suspect or defendant in a criminal case being prosecuted by this office when such acts could reasonably be foreseen as jeopardizing, compromising or thwarting a successful prosecution.

- This policy does not prohibit such contact or relationship with a Bureau employee's immediate family. For purposes of this policy "immediate family" shall mean the mother, father, daughter, son, grandmother, grandfather of the employee or of the spouse of the employee and the spouse, son-in-law, daughter-in-law, brother or sister of the employee or any person living in the immediate household of the employee.
- This policy does not prohibit such contacts or relationships with suspects or defendants when such contacts are specifically authorized by an Assistant District Attorney or the District Attorney.
- This policy does not prohibit contacts or relationships, which are deemed necessary to carry out an investigative assignment.
- When testifying, Bureau employees will be truthful, honest and accurate to the best of their memory and ability. Testimony will be given without exaggeration and without misrepresentation.
- Evidence seized, obtained, received, or otherwise in the possession of a Bureau employee shall be handled and secured pursuant to Policy and Procedure 602. Bureau employees coming into possession of evidence are responsible for the proper maintenance and security of that evidence. Bureau employees are also responsible for the proper recording of the chain of custody of that evidence.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Retention of Investigator Notes

502.1 PURPOSE AND SCOPE

Investigators will retain original investigation notes with the investigation case file. Notes taken in conjunction with an audio-recorded event (audio or video) need not be retained once the recording is determined to be a complete record of the event. Notes made concerning circumstances or observations not captured on the recording (e.g. location, physical responses, appearance) will be retained. The original recording will be booked into evidence and retained until such time as the investigation case file is purged.

Notes taken on a computer should be printed on paper and retained in the case file unless said notes were taken in conjunction with an audio-recorded event and it is determined the recording is a complete record of the event.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Investigation Case Closure

503.1 PURPOSE AND SCOPE

When an investigator completes the required work on an assigned case, the assigned case should be closed and forwarded to the Team Leader or Division Lieutenant as directed.

503.2 PROCEDURE

Upon determining that an assigned case is to be closed, the investigator will do the following prior to submitting the closed case file:

(a) The investigation activity log will be reviewed to ascertain that all-pertinent activity and information is included in that activity log.

(b) Items of evidence will be identified and a determination will be made as to whether the evidence items will be retained within the Bureau of Investigation Evidence Room or will be disposed of in the appropriate and lawful manner.

(c) Reports, notes, records, and any other such paper work will be either securely affixed in the case folder or secured in enclosed case files. Paperwork, photos, etc will not be loosely thrown into case folders and submitted.

(d) A closing report will be completed and attached within the investigation file. Sufficient information will be included in the closing report to identify the status of the case and to identify the status of any evidence retained in the case.

(e) Media containing audio and/or video recordings, or other data related to the case will not be retained in a closed investigation file. Recorded media will be submitted to and retained in the evidence room.

(f) Assigned "Tasks" in Ciberlaw shall be updated as completed and appropriate "Notes" entries made as required. Investigators shall then update the "File Location" in Ciberlaw to indicate the physical transfer of the case file to a Team Leader or Lieutenant.

(g) Upon completing the described case closing process, the closed case file will be submitted for review The Team Leader or Lieutenant will ensure that the requested work has been completed and that a closure of the investigation file is appropriate. The Team Leader or Lieutenant will also ensure that any evidence obtained in the course of the investigation is either retained in an appropriate location or has been disposed of in an appropriate and lawful manner. After reviewing the content of the case file, the Team Leader or Lieutenant will make the appropriate notation on the closing report indicating her/his approval to close the case. The Team Leader or Lieutenant will then close the case in Ciberlaw and then submit the case file to Bureau clerical staff for proper filing. The Team Leader or Lieutenant shall then update the "File Location" in Ciberlaw to indicate the physical transfer of the case file to clerical staff.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Removal of Confidential Information with Reports Filed with the Court

504.1 PURPOSE AND SCOPE

In order to protect the privacy of victims and witnesses, the Penal Code requires law enforcement agencies to remove certain confidential information from specified documents filed with the court.

Penal Code § 964, in conjunction with Penal Code §§ 841.5 and 293, requires that confidential personal information be removed from the following documents when filed with the court:

(a) Police or investigative reports filed in support of a criminal complaint (or information or indictment).

(b) Search warrant affidavits.

(c) Statements filed to support the issuance of an arrest warrant.

504.2 PROCEDURE

For the purpose of this section, the following is considered to be "confidential personal information" and should be removed from any report or document prior to being filed with the court:

- Address
- Telephone number
- Driver's license number
- California identification card number
- Social security number
- Date of birth
- Place of employment
- Employee identification number
- Mother's maiden name
- Demand deposit account numbers
- Savings/Financial account numbers
- Checking account numbers
- Credit card numbers

The redaction of personal confidential information may be accomplished by using one of the following:

- Redacting the information from certain confidential information fields or the body of the investigative report or document.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

- In some cases, the issuing deputy district attorney may present a carefully worded statement in support of the complaint instead of submitting the report.
- In reference to affidavits in support of search warrants, the preferred practice is carefully worded affidavits that avoid giving the information. Alternatively, sealing the affidavits may protect the information from disclosure. However, sealing is likely to be only temporary and would require additional legal work of uncertain outcome to prevent the ultimate disclosure of the affidavits and the confidential information.

Bureau investigators should discuss the redaction of personal confidential information from documents filed with the court with their assigned deputy district attorney to determine how best to accomplish the required protection. In some instances, paralegals assigned to a work group may be responsible for the redaction of documents contained in discovery packets, however; investigators shall ensure that when filing documents or reports with the court (as listed in PPM 504.1), that "confidential personal information" is redacted.

504.2.1 VICTIMS OF SEX CRIMES OR DOMESTIC VIOLENCE

In addition to the requirement to remove confidential personal information from reports and other documents filed with the court, the name of a sex crime victim, or a victim that was forced to commit an act of prostitution because he or she was the victim of human trafficking, as defined in Section 236.1, or a victim of domestic violence, shall also be kept confidential at the victim's request. A police officer or an investigator who responds to the scene of a crime has a duty to notify victims of this right. Investigators need to ensure that this request is honored when writing initial or follow-up reports, statement of facts, or affidavits in support of search warrants or complaints. Should an investigator be unsure of whether such a request has been made by the victim, the investigator should err on the side of redaction rather than inclusion.

If a victim chooses to keep his or her name confidential the police officer or investigator shall use the name Jane or John Doe throughout his/her report. Only individuals approved by the court will have access to the victim's true identity, including:

- Attorney from the District Attorney's Office
- The defense attorney(s)
- The affected law agencies, including parole, California Department of Corrections and Rehabilitation (CDCR), and probation. (Penal Code § 293). Marsy's Law protects contact information for all victims

504.2.2 JUVENILE INFORMATION

Investigators shall ensure that Juvenile identifying information is redacted from all documents or reports filed with the court.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Subpoena and Interview of Juveniles

505.1 PURPOSE AND SCOPE

The District Attorney's Office recognizes parental and guardian rights, needs and concerns when juveniles become involved in the criminal or juvenile justice system, either as victims or as witnesses. Whenever practical, advance notice should be given to parents of juveniles who are to be contacted. This advanced notification will not be made if it would be inappropriate or detrimental to our investigation and prosecution.

This policy does not apply to contacts, detentions, or arrests of juveniles who are suspects in the case being investigated. Welfare and Institutions Code 627 sets forth parental notification requirements when juveniles are taken into custody.

505.2 PROCEDURE

505.2.1 CONTACT WITH DEPENDENT JUVENILES

A dependent juvenile is a juvenile who has been determined by the Juvenile Court to be a ward of the court pursuant to Welfare and Institutions Code 300.

Subpoenas to be served upon dependent juveniles are to be directed to Santa Clara County Social Services Agency, Department of Family and Children Services.

505.2.2 SUBPOENA SERVICE

Existing law, Penal Code 1328, establishes protocol for subpoena service on juveniles. This section requires the parent or guardian to be the recipient of the subpoena for juveniles under twelve years of age. This section requires that individual subpoenas be served upon juveniles twelve years or older and upon the parent or guardian. If the parent or guardian of a juvenile older than twelve is served first, the investigator under normal circumstances will advise the parent or guardian of the need to also serve the juvenile. If the juvenile is served first, the parent or guardian will be advised of the service on the juvenile when the parent or guardian is served.

505.2.3 CONTACTS AT SCHOOL

Prior to an investigator contacting a juvenile at school, the investigator will contact school officials and identify himself/herself as an investigator for the District Attorney's Office. Although school officials my not impede a peace officer wishing to contact a student for a legitimate law enforcement purpose, school officials do have legitimate concerns for students and they have the duty to exercise reasonable care in verifying the identity of a peace officer before releasing students for interviews or other necessary investigative activities.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Detention and Photographing Detainees

506.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for conducting field interviews (FI) and pat down searches, and the taking and retention of photographs of persons detained in the field but not arrested. Due to a variety of situations confronting the investigator, the decision to FI or photograph a field detainee shall be left to the discretion of the involved investigator based on the totality of the circumstances available to them at the time of the detention.

506.2 DEFINITIONS

Detention - Occurs when an investigator intentionally, through words, actions or physical force causes an individual to reasonably believe he/she is being required to restrict his/her movement. Detentions also occur when an investigator actually restrains a person's freedom of movement.

Consensual Encounter - Occurs when an investigator contacts an individual, but does not create a detention through words, actions or other means. In other words, a reasonable individual would believe that his/her contact with the investigator is voluntary.

Field Interview - The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion for the purposes of determining the individual's identity and resolving the investigator's suspicions

Field Photographs - Field photographs are defined as posed photographs taken of a person during a contact, 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 when persons are not posed for the purpose of photographing are not considered field photographs.

Pat-Down Search - This type of search is used by investigators in the field to check an individual for weapons. It involves a thorough patting down of clothing to locate any weapons or dangerous items that could pose a danger to the investigator, the detainee, or others.

Reasonable Suspicion - Occurs when, under the totality of the circumstances, an investigator has articulable facts that criminal activity may be afoot and a particular person is connected with that possible criminal activity.

506.3 FIELD INTERVIEWS

Investigators may stop individuals for the purpose of conducting a field interview where reasonable suspicion is present. In justifying the stop, the investigator should be able to point to specific facts which, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:

(a) The appearance or demeanor of an individual suggests that he/she is part of a criminal enterprise or is engaged in a criminal act.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

(b) The actions of the suspect suggest that he/she is engaged in a criminal activity.

(c) The hour of day or night is inappropriate for the suspect's presence in the area.

(d) The suspect's presence in the particular area is suspicious.

(e) The suspect is carrying a suspicious object.

(f) The suspect's clothing bulges in a manner that suggests he/she is carrying a weapon.

(g) The suspect is located in proximate time and place to an alleged crime.

(h) The investigator has knowledge of the suspect's prior criminal record or involvement in criminal activity.

506.3.1 INITIATING A FIELD INTERVIEW

An investigator may initiate the stop of a person when there is articulable, reasonable suspicion to do so. A person however, should not be detained longer than is reasonably necessary to resolve the investigator's suspicions.

506.3.2 WITNESS IDENTIFICATION AND INTERVIEWS

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

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

1. When feasible, a recorded statement should be obtained from those persons who claim not to have witnessed the incident, but who were present at the time it occurred.

2. Any potential witness who is unwilling or unable to remain available for a formal interview should not be detained absent reasonable suspicion to detain or probable cause to arrest. Without detaining the individual for the sole purpose of identification, investigators should attempt to identify the witness prior to his/her departure.

(b) Witnesses who are willing to provide a formal interview should be asked to meet at a suitable location where criminal investigators may obtain a recorded statement. Such witnesses, if willing, may be transported by department personnel.

1. A written, verbal or recorded statement of consent should be obtained prior to transporting a witness in a department vehicle.

2. When the witness is a minor, consent should be obtained from the parent or guardian, if available, prior to transportation.

506.4 PAT-DOWN SEARCHES

A pat-down search of a detained subject may be conducted whenever an investigator reasonably believes that the person may possess an object that can be utilized as an offensive weapon or whenever the investigator has a reasonable fear for his/her own safety or the safety of others.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Circumstances that may establish justification for performing a pat-down search include, but are not limited to, the following:

(a) The type of crime suspected, particularly in crimes of violence where the use or threat of deadly weapons are involved.

(b) Where more than one suspect must be handled by a single investigator.

(c) The hour of the day and the location or neighborhood where the stop takes place.

(d) Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.

(e) The appearance and demeanor of the suspect.

(f) Visual indications which suggest that the suspect is carrying a firearm or other weapon.

(g) The age and gender of the suspect.

Whenever possible, pat-down searches should be performed by investigators of the same gender.

506.5 FIELD PHOTOGRAPHS

Before photographing any field detainee, the investigator shall carefully consider, among other things, the factors listed below.

506.5.1 FIELD PHOTOGRAPHS TAKEN WITH CONSENT

Field photographs may be taken when the subject of the photograph knowingly and voluntarily gives consent.If practical, investigators should obtain a record of the detained person's consent prior to the taking of the photograph by either having the detained person sign a consent form or by audio recording the detained person's verbal consent.

506.5.2 FIELD PHOTOGRAPHS TAKEN WITHOUT CONSENT

Field photographs may only be taken with county-owned and/or authorized equipment (e.g. cameras, cell phones) and in compliance with any existing Santa Clara County surveillance technology policies. 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. Mere knowledge or suspicion of gang membership or affiliation is not a sufficient justification for taking a photograph without consent. The investigator must be able to articulate facts that reasonably indicate that the subject was involved in or was about to become involved in criminal conduct.

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

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

506.6 SUPERVISOR RESPONSIBILITY

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. Access to field photographs shall be strictly limited to law enforcement purposes.

506.7 DISPOSITION OF PHOTOGRAPHS

All Field Interviews (FI's), not associated with a case, should be entered into CIBER as a public contact/Field Interview. Any detainee photographs should be attached as an FI photo. If an individual is photographed as a suspect in a particular crime, the photograph should be submitted as an evidence item in the related case, following standard evidence procedures.

When a photograph is taken in association with a particular case, the investigator may use such photograph in a photo lineup. Thereafter, the individual photograph should be retained as a part of the case file. All other photographs will be booked into evidence under the case number associated with the submitted report.

506.7.1 PURGING THE FIELD PHOTO FILE

The Administrative Lieutenant or designee will be responsible for ensuring that photographs maintained as FI photos in CIBER that are more than two-years-old and no longer serve a law enforcement purpose are periodically purged and destroyed. Photographs that continue to serve a legitimate law enforcement purpose may be retained longer than two years provided that a notation of that fact is added to the FI file in CIBERfor each additional year that they are retained. Access to a FI photo file shall be strictly limited to law enforcement purposes.

506.8 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 requesting a review of the status of the photograph/FI. The request shall be directed to the Chief Investigator who will ensure that the status of the photograph or FI is properly reviewed.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Eyewitness Identification

507.1 PURPOSE AND SCOPE

In accordance with the Santa Clara County Chiefs' Association's established lineup protocol, District Attorney Investigators will conduct all photo lineups using the single image sequential process, wherein photos are shown one at a time. This policy also sets forth guidelines to be used when members of this bureau employ eyewitness identification techniques (Penal Code § 859.7).

507.1.1 DEFINITIONS

Definitions related to the policy include:

Blind Administration - The administrator of an eyewitness identification procedure does not know the identity of the suspect.

Blinded Administration - The administrator of an eyewitness identification procedure may know who the suspect is, but does not know where the suspect, or his or her photo, as applicable, has been placed or positioned in the identification procedure.

Eyewitness identification process - Any field identification, live lineup or photographic identification.

Field identification - A live presentation of a single individual to a witness following the commission of a criminal offense for the purpose of identifying or eliminating the person as the suspect.

Live lineup - A live presentation of individuals to a witness for the purpose of identifying or eliminating an individual as the suspect.

Photographic lineup - Presentation of photographs to a witness for the purpose of identifying or eliminating an individual as the suspect.

507.2 POLICY

The Santa Clara County District Attorney's Office, Bureau of Investigation will strive to use eyewitness identification techniques, when appropriate, to enhance the investigative process and will emphasize identifying persons responsible for crime and exonerating the innocent.

507.3 INTERPRETIVE SERVICES

Members should make a reasonable effort to arrange for an interpreter before proceeding with eyewitness identification if communication with a witness is impeded due to language or hearing barriers.

Before the interpreter is permitted to discuss any matter with the witness, the investigating member should explain the identification process to the interpreter. Once it is determined that the interpreter comprehends the process and can explain it to the witness, the eyewitness identification may proceed as provided for within this policy. Investigators will ensure the interpreter is not a family member or additional witness to the investigation.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

507.4 EYEWITNESS IDENTIFICATION PROCESS AND FORM

The Training Manager shall be responsible for the development and maintenance of an eyewitness identification process for use by members when they are conducting eyewitness identifications.

The process should include appropriate forms or reports that provide (Penal Code § 859.7):

(a) The date, time and location of the eyewitness identification procedure.

(b) The name and identifying information of the witness.

(c) The name of the person administering the identification procedure.

(d) If applicable, the names of all of the individuals present during the identification procedure.

(e) An instruction to the witness that it is as important to exclude innocent persons as it is to identify a perpetrator.

(f) An instruction to the witness that the perpetrator may or may not be among those presented and that the witness is not obligated to make an identification.

(g) If the identification process is a photographic or live lineup, an instruction to the witness that the perpetrator may not appear exactly as he/she did on the date of the incident.

(h) An instruction to the witness that the investigation will continue regardless of whether an identification is made by the witness.

(i) A signature line where the witness acknowledges that he/she understands the identification procedures and instructions.

(j) A statement from the witness in the witness's own words describing how certain he/she is of the identification or non-identification. This statement should be taken at the time of the identification procedure.

(k) Any other direction to meet the requirements of Penal Code § 859.7, including direction regarding blind or blinded administrations and filler selection.

The process and related forms should be reviewed at least annually and modified when necessary.

507.5 EYEWITNESS IDENTIFICATION

Members are cautioned not to, in any way, influence a witness as to whether any subject or photo presented in a lineup is in any way connected to the case.

Members should avoid mentioning that:

- The individual was apprehended near the crime scene.
- The evidence points to the individual as the suspect.
- Other witnesses have identified or failed to identify the individual as the suspect.

In order to avoid undue influence, witnesses should view suspects or a lineup individually and outside the presence of other witnesses. Witnesses should be instructed to avoid discussing details of the incident or of the identification process with other witnesses.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Whenever feasible, the eyewitness identification procedure should be audio and video recorded and the recording should be retained according to current evidence procedures (Penal Code § 859.7).

507.6 DOCUMENTATION

A thorough description of the eyewitness process and the result of any eyewitness identification should be documented in the case report.

If a photographic lineup is utilized, a copy of the photographic lineup presented to the witness should be included in the case report. In addition, the order in which the photographs were presented to the witness should be documented in the case report.

507.6.1 DOCUMENTATION RELATED TO RECORDINGS

The handling member shall document the reason that a video recording or any other recording of an identification was not obtained (Penal Code § 859.7).

507.6.2 DOCUMENTATION RELATED TO BLIND ADMINISTRATION

If a presentation of a lineup is not conducted using blind administration, the handling member shall document the reason (Penal Code § 859.7).

507.7 FIELD IDENTIFICATION CONSIDERATIONS

Field identifications, also known as field elimination show-ups or one-on-one identifications, may be helpful in certain cases, where exigent circumstances make it impracticable to conduct a photo or live lineup identifications. A field elimination show-up or one-on-one identification should not be used when independent probable cause exists to arrest a suspect. In such cases a live or photo lineup is the preferred course of action if eyewitness identification is contemplated.

When initiating a field identification, the member should observe the following guidelines:

(a) Obtain a complete description of the suspect from the witness.

(b) Assess whether a witness should be included in a field identification process by considering:

1. The length of time the witness observed the suspect.
2. The distance between the witness and the suspect.
3. Whether the witness could view the suspect's face.
4. The quality of the lighting when the suspect was observed by the witness.
5. Whether there were distracting noises or activity during the observation.
6. Any other circumstances affecting the witness's opportunity to observe the suspect.
7. The length of time that has elapsed since the witness observed the suspect.

(c) If safe and practical, the person who is the subject of the show-up should not be handcuffed or in a patrol vehicle.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(d) When feasible, members should bring the witness to the location of the subject of the show-up, rather than bring the subject of the show-up to the witness.

(e) The person who is the subject of the show-up should not be shown to the same witness more than once.

(f) In cases involving multiple suspects, witnesses should only be permitted to view the subjects of the show-up one at a time.

(g) The person who is the subject of the show-up should not be required to put on clothing worn by the suspect, to speak words uttered by the suspect or to perform other actions mimicking those of the suspect.

(h) If a witness positively identifies a subject of the show-up as the suspect, members should not conduct any further field identifications with other witnesses for that suspect. In such instances members should document the contact information for any additional witnesses for follow up, if necessary.

507.8 PHOTOGRAPHIC LINEUP AND LIVE LINEUP CONSIDERATIONS

When practical, the member presenting the lineup should not be involved in the investigation of the case or know the identity of the suspect. In no case should the member presenting a lineup to a witness know which photograph or person in the lineup is being viewed by the witness (Penal Code § 859.7). Techniques to achieve this include randomly numbering photographs, shuffling folders, or using a computer program to order the persons in the lineup.

Individuals in the lineup should reasonably match the description of the perpetrator provided by the witness and should bear similar characteristics to avoid causing any person to unreasonably stand out. In cases involving multiple suspects, a separate lineup should be conducted for each suspect. The suspects should be placed in a different order within each lineup (Penal Code § 859.7).

The member presenting the lineup should do so sequentially (i.e., show the witness one person at a time) and not simultaneously. The witness should view all persons in the lineup.

A live lineup should only be used before criminal proceedings have been initiated against the suspect. If there is any question as to whether any criminal proceedings have begun, the investigating member should contact the appropriate prosecuting attorney before proceeding.

507.8.1 CREATING THE SEQUENTIAL PHOTO LINEUP

(a) Investigators will create the sequential lineup using one photo and at least five filler photos.

(b) Photographs to be shown must be on separate pieces of paper.

(c) There will be no identifying marks placed on the front of the photos, but the investigator may number them on back.

(d) There will be no previous arrest information, writings, or markings on the photo (Penal Code § 859.7).

(e) Investigators will keep a record identifying each person in the sequential photo lineup.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

507.8.2 SHOWING THE SEQUENTIAL PHOTO LINEUP

(a) Investigators shall attempt a blind administration photo lineup with another investigator who does not know the identity of the suspect (Penal Code § 859.7).

1. If a blind administration is not possible, a blinded administration shall be conducted using the folder shuffle method or any other procedure that achieves neutral administration and prevents the lineup administrator from knowing where the suspect or his or her photo has been placed or positioned in the identification procedure as per Penal Code § 859.7.

(b) When showing the sequential photo lineup, investigators shall utilize the "Santa Clara County District Attorney (SCCDA) Identification Form" See attachment: PPM 507 Sequential Line Up Form.pdf

(c) The investigator showing the sequential lineup shall read to the witness the admonition and instructions directly from the form.

(d) The completed SCCDA Identification Form will be retained in the investigation file.

507.8.3 OTHER SAFEGUARDS

Witnesses should be asked for suspect descriptions as close in time to the incident as possible and before conducting an eyewitness identification. No information concerning a suspect should be given prior to obtaining a statement from the witness describing how certain he/she is of the identification or non-identification. Members should not say anything to a witness that may validate or invalidate an eyewitness' identification. In photographic lineups, writings or information concerning any previous arrest of a suspect shall not be visible to the witness (Penal Code § 859.7).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Public Recording of Law Enforcement Activity

508.1 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.

508.2 POLICY

The Santa Clara County District Attorney's Office Bureau of Investigation ("BOI") 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.

Investigators should exercise restraint and should not resort to highly discretionary arrests for offenses such as interference, failure to comply or disorderly conduct as a means of preventing someone from exercising the right to record members performing their official duties.

508.3 RECORDING LAW ENFORCEMENT ACTIVITY

Members of the public who wish to record law enforcement activities are limited only in certain aspects.

(a) Recordings may be made from any public place or any private property where the individual has the legal right to be present (Penal Code § 69; Penal Code § 148).

(b) Beyond the act of photographing or recording, individuals may not interfere with the law enforcement activity. Examples of interference include, but are not limited to:

1. Tampering with a witness or suspect.
2. Inciting others to violate the law.
3. Being so close to the activity as to present a clear safety hazard to the investigators.
4. Being so close to the activity as to interfere with an investigator's effective communication with a suspect, or witness.

(c) The individual may not present an undue safety risk to the investigators, him/herself or others.

508.4 INVESTIGATOR RESPONSE

Investigators 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 practical, investigators should wait for the supervisor to arrive before taking enforcement action or seizing any cameras or recording media.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Whenever practical, investigators or supervisors should give clear and concise warnings to individuals who are conducting themselves in a manner that would cause their recording or behavior to be unlawful. Accompanying the warnings should be clear directions on what an individual can do to be compliant; directions should be specific enough to allow compliance. For example, rather than directing an individual to clear the area, an investigator could advise the person that he/she may continue observing and recording from the sidewalk across the street.

If an arrest or other significant enforcement activity is taken as the result of a recording that interferes with law enforcement activity, investigators shall document in a report the nature and extent of the interference or other unlawful behavior and the warnings that were issued.

508.5 SUPERVISOR RESPONSIBILITIES

A supervisor should respond to the scene when requested or any time the circumstances indicate a likelihood of interference or other unlawful behavior.

The supervisor should review the situation with the investigator and:

(a) Request any additional assistance as needed to ensure a safe environment.

(b) Take a lead role in communicating with individuals who are observing or recording regarding any appropriate limitations on their location or behavior. When practical, the encounter should be recorded.

(c) When practical, 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.

508.6 SEIZING RECORDINGS AS EVIDENCE

Investigators should not seize recording devices or media unless (42 USC § 2000aa):

(a) There is probable cause to believe the person recording has committed or is committing a crime to which the recording relates, and the recording is reasonably necessary for prosecution of the person.

  1. Absent exigency or consent, a warrant should be sought before seizing or viewing such recordings. Reasonable steps may be taken to prevent erasure of the recording.

(b) There is reason to believe that the immediate seizure of such recordings is necessary to prevent serious bodily injury or death of any person.

(c) The person consents.

  1. To ensure that the consent is voluntary, the request should not be made in a threatening or coercive manner.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

2. If the original recording is provided, a copy of the recording should be provided to the recording party, if practical. The recording party should be permitted to be present while the copy is being made, if feasible.

Recording devices and media that are seized will be submitted within the guidelines of Policy 602, Evidence and Storage.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Search Warrant, Probation, and Parole Searches

509.1 PURPOSE AND SCOPE

To set forth a uniform procedure to identify roles, responsibilities and documentation requirements for the service of search warrants, probation searches, and parole searches by sworn personnel.

509.2 PROCEDURE

509.2.1 INITIAL INVESTIGATION

The primary investigator (or designee) will personally view the location(s) to be searched and the point(s) where entry is to be made for the service of search warrants, arrest warrants, probation searches, and parole searches that require an entry into a residence, business or commercial establishment. When applicable, the primary investigator (or designee) will also identify all outbuildings or structures to be searched in addition to the primary location.

Investigators may deviate from this requirement when the circumstances of a search warrant (e.g. a search warrant that is domesticated in another state), arrest warrant (e.g. self-surrender, already in-custody), probation/parole search (e.g. incident to arrest, during a vehicle stop), do not require the investigator to personally view a location or points of entry to be made.

In preparation for the service of a search warrant, probation or parole search on a residence, business, vehicle or person, investigators shall query the Los Angeles Regional Criminal Information Clearinghouse/Western States Information Network (LAClear/WSIN) to insure there are no investigative conflicts with other law enforcement agencies or personnel. The results of the LAClear/WSIN inquiry shall be noted in the Operational Plan.

Further intelligence on the location(s), person(s), associate(s) or vehicle(s) to be searched should be gleaned from resources available to the investigator to include, but not necessarily limited to, the following:

- CopLink
- NLETS (including firearms ownership)
- CJIC
- NCIC
- Utility user
- Telephone subscriber
- Crisscross directory/Commercial Law Enforcement Databases
- Records (Local/State/Federal)
- DMV, photo if necessary
- Direct surveillance of premises

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

The above listed investigative steps are not necessary for the service of search warrants via mail, email or fax transmission to:

- Financial institutions;
- Telephone/cellular companies requesting records;
- Other financial/business institutions for which the records will be produced at a later time;
- Electronic communication service providers; or
- When a search warrant is issued authorizing the scientific analysis of any item(s) already in the custody of law enforcement, the Court, or provided by any other person who has possession of such item(s).
- Search Warrants for jail calls, jail cells, buccal swabs, mail covers, photos of gang tattoos or similar may not require these steps to be completed depending on the circumstances of the case.

509.2.2 SEARCH WARRANT REVIEW

The investigator shall review the facts of the case with the assigned Deputy District Attorney and determine whether or not there is sufficient probable cause to obtain a search warrant. Once determined, the investigator will work with the DDA to author the search warrant and the affidavit in support of the search warrant. Once final review has been completed by the DDA and all edits made, the investigator shall submit the affidavit in support of the search warrant and the search warrant to a magistrate for review and signature. Search warrants that require an Operational Plan shall be reviewed by the investigator's supervisor prior to the final review by the DDA.

509.2.3 AFTER HOURS SEARCH WARRANTS

Investigators that need to obtain a search warrant after normal business hours will either make arrangements with the DDA assigned to his/her case to review the search warrant or may utilize either the on-call search warrant DDA or the on-call Homicide DDA, whichever is applicable to the circumstances of the case.

509.2.4 NIGHT SERVICE ENDORSEMENT

Service of search warrants **shall not** be made between the hours of 10:00 p.m. and 7:00 a.m. unless the warrant is endorsed by a magistrate for night service per Penal Code §1533. When seeking a Night Service Endorsement for a search warrant requiring an Operational Plan, the investigator's supervisor or designee shall review the "good cause" facts as stated in the affidavit and shall consider the balance of officer safety and the safety of the public before approving a night service search warrant.

509.2.5 SPECIAL MASTER - CA PENAL CODE SECTION § 1524 (C)

Investigators seeking a search warrant for any documentary evidence in the possession or under the control of any person who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

1010 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the Evidence Code, shall ensure that the following procedure has been complied with:

(a) At the time of the issuance of the warrant, the court shall appoint a special master in accordance with §1524 PC subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for the items in the areas indicated in the search warrant.

In 2001 the California Supreme Court essentially ruled that this procedure must be employed in all searches of patient or client files because, even if the professional was the suspect, the custodian of records is ethically obligated to **assert the confidentiality privilege** as to all files that officers intend to read.

509.2.6 SEARCH CONDUCTED BY AN EXPERT

While most searches are conducted by peace officers (Penal Code Sections 1528, 1529 & 1530), there are situations in which it is impossible or extremely difficult for investigators to do so because the evidence is such that it can best be identified by a person with certain expertise. When this happens, the affiant should seek authorization in the search warrant, as justified in the affidavit, to have an expert in such matters accompany the officers and conduct the search himself/herself.

509.3 SEALING ORDERS

Search warrants, including their supporting affidavits and any incorporated documents, become a public record when they are returned to the court or, if not executed, ten days after they were issued. Because public disclosure may have serious adverse consequences, the affiant may apply for a sealing order which would require that all or part of the affidavit be kept confidential until further order of the court.

509.3.1 GROUNDS FOR SEALING ORDERS

In most cases, sealing orders are issued for either of the following reasons:

(a) PROTECT INFORMANT'S IDENTITY: If the warrant is based wholly or in part on information from a confidential informant, the judge may seal the parts of the affidavit that would reveal or tend to reveal his/her identity.

(b) PROTECT "OFFICIAL INFORMATION": An affidavit may be sealed if it tends to disclose "official information," which is defined as confidential information whose disclosure would not be in the public interest (e.g., information obtained in the course of an ongoing criminal investigation; information that would tend to reveal the identity of an undercover officer, a citizen informant, a confidential surveillance site, or the secret location of VIN numbers).

See People v. Hobbs (1994) 7 Cal. 4th 998

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

509.3.2 OBTAINING A SEALING ORDER

To obtain a sealing order, the affiant must do the following:

(a) DETERMINE SCOPE OF ORDER: The first step is to determine whether it is necessary to request the sealing of only certain information, certain documents, or everything.

(b) SEGREGATE CONFIDENTIAL INFORMATION: If the affiant is requesting that only part of the affidavit be sealed, he/she will present the judge with two affidavits for review: one containing information that may be disclosed; the other containing information that would be subject to the sealing order. The latter affidavit should be clearly identified by assigning it an exhibit number or letter, then writing that number or letter in a conspicuous place at the top of the document (e.g., Exhibit A).

(c) REQUEST ORDER: The affiant should state in the affidavit that he/she is seeking a sealing order (e.g.,

(d) PROVING CONFIDENTIALITY: The affiant must explain why the sealing is reasonably necessary. To prove that the sealed information would tend to disclose the identity of a confidential informant, the affiant should explain (in the sealed portion) why the informant or his/her family would be in danger if his/her identity was revealed. To prove that sealed information is covered under the "official information" privilege, the affiant should set forth facts demonstrating that the information was "acquired in confidence by a public employee in the course of his or her duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made."

(e) JUDGE ISSUES ORDER: If the affiant's request is granted, the judge will sign the sealing order.

(f) EXHIBITS: Although the order may be included in the warrant, it is better to incorporate it into a separate document so that it is not disclosed to the people who are served with the warrant.

(g) WHERE SEALED DOCUMENTS MUST BE KEPT: All sealed documents must be retained by the court, unless the judge determines that court security is inadequate. In such cases, the documents may be retained by the affiant if he/she submits proof that the security precautions within his/her agency are sufficient, and that his/her agency has established procedures to ensure that the sealed affidavit is retained for ten years after final disposition of non-capital cases, and permanently in capital cases. Investigators shall seek guidance from their supervisor to determine the best course of action in order to comply with the retention of sealed documents.

People v. Galland (2008) 45 Cal. 4th 354

509.4 CALIFORNIA ELECTRONIC COMMUNICATION PRIVACY ACT

The California Electronic Communications Privacy Act (CalECPA, Penal Code §§ 1546-1546.4) took effect January 1, 2016. CalECPA provides specific requirements for the execution of search warrants and consent searches related to any electronic communication. CalECPA broadly defines electronic communication as follows:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

CalECPA covers the execution of search warrants and consent searches related to data stored by an electronic communication service (e.g. Google, Inc., Yahoo, Inc., Facebook, Inc.) and data stored on electronic devices (e.g. cellular telephones, computers, tablets). CalECPA also specifies requirements for the notification of the "target(s)" of any search of electronic information contemporaneously with the execution of the search, unless the court has authorized a delay in such notification (PC 1546.2).

While CalECPA has codified many existing requirements of case law, it has added additional procedures that were not previously utilized when searching electronic information. Therefore, any search warrant or consent search that is sought by an investigator must be approved by the appropriate deputy district attorney. All search warrants and consent search forms must comply with current office approved language. If any question arises over the requirements of the California Electronic Communications Privacy Act, the investigator should contact a deputy district attorney assigned to the High Tech Crimes Unit for advice and support.

Failure to comply with all provisions of the CalECPA could result in the suppression of all evidence obtained through the search of the electronic information (PC 1546.4)

509.5 REQUESTS FOR AN OFF-SITE SEARCH OF COMPUTERS

To obtain authorization for an off-site search, the affiant must explain why it is necessary. The following is an example of language that can be put into the affidavit when requesting an off-site search at a computer forensic laboratory:

(a) "Based on your affiant's training and experience, your affiant knows that evidence is commonly found on computers and associated memory storage devices weeks, months or even years after the crime was committed. Your affiant knows that evidence can still be found on computers and associated memory storage devices even if a suspect attempts to delete, erase, hide or destroy that information. A computer forensic examiner using data recovery tools can recover this evidence".

(b) "A modern computer's data memory typically contains a volume of information that, if printed out on normal sized paper, would create a stack hundreds of yards high. The accuracy and preservation of any data contained in the computers can best be assured in the controlled environment of a computer forensic lab. Authority is therefore requested to examine any seized computers and associated memory storage devices in a law enforcement computer forensic lab".

(c) The affiant should then add some language (customized as needed to fit the facts of the case) to the proposed search warrant that would authorize an off-site search (e.g. "The forensic examination and search of the data stored within any computer components and/or computer memory storage devices for evidence of registry files, log-on records, e-mails, instant messages, or other system or user-generated files that may indicate ownership, dominion and control; evidence of on-line commerce, including stored website data, on-line banking or financial data, history data related to websites opened or otherwise visited, spreadsheets or financial management files that may be used to track illicit proceeds; electronic image or video files that may depict property acquired from the proceeds of illicit transactions; data files in any form

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

that may identify a storage location for contraband or the proceeds from the sale of contraband and the word processing or communications data in any format that may be used to connect or record correspondences with accomplices, co-conspirators or victims)".

509.6 NONDISCLOSURE ORDER

Investigators will frequently utilize a search warrant to obtain the records of a customer of a financial institution, phone company, or provider of an email or internet service. If, as in most cases, they do not want the target customer to learn about it, they may ask the issuing judge for a temporary nondisclosure order in increments of up to 90 days.Such an order may ordinarily be issued if the affiant demonstrates that disclosure would have an adverse result. Penal Code §§ 1524.3 (d)(2) and 1546 (a) define an "adverse result" as any of the following:

- Endangering the life or physical safety of an individual
- Flight from prosecution
- Tampering or destruction of evidence
- Intimidation of a potential witness
- Otherwise seriously jeopardizing an investigation or unduly delaying a trial

A nondisclosure order must appear on the face of the search warrant.

The California Electronic Communications Privacy Act creates specific requirements for non-disclosure orders related to searches of electronic information (PC 1546.2). Failure to comply with all provisions of the CalECPA could result in the suppression of all evidence obtained through the search (PC 1546.4).

Investigators should not automatically ask for a delay in notification in every case, but should evaluate the need for a delay based upon a thorough evaluation of the specific facts of the case under investigation.

509.7 RETURN/DISPOSAL OF PROPERTY

When investigators seize evidence pursuant to a search warrant, the evidence is technically in the custody and control of the judge who issued the warrant. Consequently, the investigators cannot transfer possession of the evidence to officers from another agency or any other person unless they have obtained a court order to do so. However, investigators may seek the court's approval to return or dispose of the property without a court order by including language in the search warrant similar to:

> "I also request that upon adjudication of the case(s) against all defendant(s) in this action, including the resolution of any and all appeals, and the written concurrence of the **[INSERT COUNTY NAME, but not in bold or uppercase]** County District Attorney's Office, the property be disposed of in accordance with the procedures set forth in California Penal Code

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

§§1407 to 1422, without the necessity of further Court Order issued pursuant to California Penal Code §1536."

509.8 OUT-OF-COUNTY SEARCH WARRANTS

A judge in California may issue a warrant to search a person, place, or thing located in any county in the state if the affidavit establishes probable cause to believe that the evidence listed in the warrant pertains to a crime that was committed in the county in which the judge sits. As the California Supreme Court explained, "[A] magistrate has jurisdiction to issue an out-of-county warrant when he has probable cause to believe that the evidence sought relates to a crime committed within his county and thus pertains to a present or future prosecution in that county."

509.9 OUT-OF-STATE SEARCH WARRANTS

California judges do not have the authority to issue warrants to search a person, place, or thing located in another state. Consequently, investigators who need an out-of-state warrant must either travel to the other state and apply for it themselves or, more commonly, request assistance from an officer in that state. Because the investigators who are requesting assistance should complete as much of the paperwork as possible, they should ordinarily do the following:

(a) Write an affidavit establishing probable cause for the search and sign it under penalty of perjury. (As discussed below, this affidavit will become an attachment to the affidavit signed by the out-of-state officer.)

(b) Write an affidavit for the out-of-state officer's signature in which the out-of-state officer simply states that he/she is incorporating the California officer's affidavit, and that it was submitted to him/her by a California officer (e.g., "Attached here to and incorporated by reference is the affidavit of[name of California officer] who is a law enforcement officer employed by the [name of California officer's agency] in the State of California. I declare under penalty of perjury that the foregoing is true)."The reason the out-of-state officer must not sign the affidavit establishing probable cause is that he or she will have no personal knowledge of the facts upon which probable cause was based.

(c) Attach the California officer's probable-cause affidavit to the out-of-state officer's unsigned affidavit.

(d) In a separate document, write the following:

1. Descriptions of the person, place, or thing to be searched.
2. Descriptions of the evidence to be seized.
3. A suggested court order pertaining to the disposition of seized evidence (e.g., "All evidence seized pursuant to this warrant shall be retained by [name of California officer] of the [name of California officer's agency] in California. Such evidence may thereafter be transferred to the possession of a court of competent jurisdiction in California").

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

If the judge issues the warrant, it will generally be executed by officers in whose jurisdiction the search will occur with the assistance of investigators from our Office. Those officers will then give or send the evidence to the California authorities.

509.10 DOMESTICATION OF A FOREIGN SEARCH WARRANT

Investigators that are asked to domesticate an out-of-state search warrant should first review the nature of the warrant. If the warrant is to be served on a California corporation that provides electronic communications services, the investigator should be aware that California Penal Code Section 1524.2 (c) requires California Internet Service Providers (ISP) to accept out-of-state search warrants:

> "A California corporation that provides electronic communication services or remote computing services to the general public, when served with a warrant issued by another state to produce records that would reveal the identity of the customers using those services, data stored by, or on behalf of, the customer, the customer's usage of those services, the recipient or destination of communications sent to or from those customers, or the content of those communications, shall produce those records as if that warrant had been issued by a California court."

Should the investigator be advised that the judge in the requesting state will not sign the warrant to be served outside of the resident state, the investigator should be aware and advise the out-of-state law enforcement officer that practically all national companies have a "Registered Agent of Service of Process" in all 50 states, to which the warrant can be served.

When Penal Code section 1524.2(c) does not apply, and there is no local Registered Agent for

Service of Process, investigators should assist in getting a Santa Clara County warrant. The investigator will get a warrant based on the out-of-state law enforcement officer's affidavit and serve it on the target California record holder. The investigator must comply with all provisions of the California Electronic Communications Privacy Act (CalECPA), including all target(s) notification requirements, when assisting an out-of-state law enforcement officer with the domestication of a search warrant for electronic information.

The term "California Corporation" as used in the statute refers to a company that is incorporated in California. Our domesticated warrants may often times be served on a foreign corporation that maintains their business records in California.

509.10.1 CALIFORNIA COURTS ARE AUTHORIZED TO ISSUE SEARCH WARRANTS IN LIMITED CIRCUMSTANCES

The most common out-of-state warrants that are being domesticated are:

- When the item seized tends to show has been committed, or tends to show that a particular person has committed **a felony.** (Pen. Code §1524, subd. (a)(4)).
- When the item seized shows the , or possession of . (Pen. Code § 1524, subd. (a)(5)).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

- When a provider of electronic communication service or remote computing service has records showing that property was stolen or embezzled constituting a **misdemeanor.** (Pen. Code § 1524, subd. (a)(7)). Under this subsection, investigators can only get the name, address, telephone billing records, subscriber number or identity, length of service, and the types of services the subscriber used. With most misdemeanors, investigators cannot get the content of emails or text messages.

In cases that do not fit one of the above situations, investigators should work with a deputy district attorney assigned to the High-Tech Crimes Unit to see if there is a California felony that fits the circumstance or some other exception. However, if a warrant would not be authorized in the resident jurisdiction, it will not be authorized in California.

509.10.2 PROCESS

The investigator should ask the out-of-state law enforcement officer to provide an affidavit, just as if the officer was requesting a warrant in his/her state**.** The affidavit should include the following:

- A statement as to why the officer is not proceeding under Penal Code 1524.2(c) (if the detective is in fact seeking records from an ISP) or using a local Registered Agent for Service of Process.
- A description of the officer's experience and expertise as it relates to the investigation.
- A description of facts to establish probable cause to believe that a crime has occurred and that evidence will be located at the place to be searched.
- A citation to the officer's local code section that the office believes was violated.
- A specific description of the records the officer wants produced including the time periods covered and, as appropriate and reasonable, the target individuals or accounts, the applications or services covered, and the types of information sought, and <u>why the officer believes that the target-business has those specific records</u>.
- A specific description of the location and/or manner in which the investigator will serve the warrant, and <u>how the out-of-state officer knows that is the place and manner to serve the warrant.</u>
- A description of how the officer would like to receive the records. If it is anything other than standard mail, the officer should include a statement that the target California corporation has agreed to the nonstandard method of production.

Finally, the Electronic Communications Privacy Act (ECPA) (18 U.S.C., § 2706) requires the governmental entity obtaining the contents of communications, records, or other information to pay the business producing the records a reasonable fee for collecting and providing the information. The statute says that the amount of the fee is to be mutually agreed upon, and if no agreement is reached, it is to be determined by the court that issued the order for production or the court where the criminal prosecution would be brought. That means that the target record holder may send a bill for the cost of collecting the out-of-state law enforcement officer's records.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

If our office gets a bill, we will send it to the out-of-state officer's agency. Investigators should ensure that the out-of-state officer agrees to resolve any question of billing with the target record holder directly.

509.11 OPERATIONAL PLAN AND BRIEFING

509.11.1 OPERATIONAL PLAN

An Operational Plan shall be authored by the primary investigator or designee when the service of a search warrant, arrest warrant, probation/parole search or other investigative strategy or plan necessitates a cohesive and specific plan of action to ensure investigator and citizen safety. The service of some search warrants (e.g. jail calls, mail covers, jail cells etc.), probation/parole searches (e.g. during the course of a car stop or upon a person already in custody) or arrest warrants (e.g. self-surrenders, person already in custody) may not necessitate an Operational Plan. Investigators should review the circumstances with their supervisor to ensure the appropriate course of action is followed.

509.11.2 OPERATIONAL BRIEFING

All participating investigators should be present at the Operational Briefing. The primary case investigator will distribute the Operational Plan which will identify the person(s), location(s) and item(s) to be searched and seized. Operational Plans will include as much information as possible (i.e., search location, suspect name and description, vehicle information, and known or suspected weapons, animals, children, and any unusual circumstances). Items sought in the search warrant shall be read from the warrant for the participating personnel. Any officer safety concerns shall be addressed during the briefing. Operational Plans should be treated as a "Law Enforcement Only" document and should be accounted for and destroyed appropriately. The original copy should be retained in the investigator's case file.

509.11.3 EQUIPMENT

The supervisor or designee will be responsible for ensuring that the equipment required to effectively conduct the search is accessible.

All personnel shall wear department issued search attire consisting of:

(a) Ballistic type protective vest.

(b) Tactical vest with a cloth or issued badge, as well as authorized insignias on the front and the back of the vest that clearly identifies the investigator as a law enforcement official (e.g. "Police – D.A. Investigator").

(c) Duty weapon, loaded magazines, handcuffs, radio, pepper spray, baton, and flashlight.

509.11.4 FIELD BRIEFING

Prior to the service of a search warrant, probation or parole search, the on-scene supervisor or designee, shall conduct a field briefing and provide the following information:

(a) Roll-call - Confirmation that assigned investigators are present.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(b) Any relevant information obtained since the Operational Briefing.

(c) Inspection of investigator equipment.

(d) Entry orientation (approach to structure) and stacking order.

(e) Deployment plan for interior and perimeter assignments.

(f) Safety plan for events such as an injury, OIS or barricaded/escaped suspect.

(g) Identification of investigator responsible for emergency radio traffic

(h) Confirmation that the local law enforcement agency has been contacted and notified of the intended service.

(i) Request appropriate restriction on radio traffic from County Communications, if needed.

(j) Document assignments for crime report.

509.12 ENTRY OF THE PREMISES TO BE SEARCHED

The primary investigator or designee will go to the entry location and make the appropriate knock and notice announcement pursuant to §§ 844 and 1531 PC, prior to entering or forcing entry into the premises. If after entering the premises, investigators encounter locked or otherwise secured rooms, a separate knock and notice announcement will be given for each secured room before entry.

509.12.1 SEARCH OF THE PREMISES

The search of the premises will be conducted in a thorough and methodical manner, being mindful not to damage any personal property of the owner or occupant of the premises (unless necessary to properly effect the search). Previous damage or damage incurred during the entry or search shall be photographed and/or video recorded and documented in writing in a crime report and appropriate county reports.

The primary investigator shall designate a "finder" for all evidence located. Prior to collecting evidence, the primary investigator shall ensure that evidence is photographed in the location found and document the location and description of the evidence on a property and crime report.

After the appropriate photo-documentation of evidence and/or contraband, the primary investigator or designee will establish an appropriate area to which evidence and contraband will be taken and inventoried. The primary investigator or designee will be solely responsible for booking all items into property and for assuring continuity in the chain of evidence.

See Oziel v. Superior Ct.(1990) 223 Cal. App. 3d 1284 Investigators should seek authorization in the search warrant as justified in the affidavit to video tape the entire scene because of privacy issues.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

509.12.2 SUPERVISOR RESPONSIBILITIES DURING SEARCHES

A lieutenant or designee shall be present during the service of all search warrants, probation or parole searches except for those that do not require an Operational Plan and those that are conducted incidental to another incident (e.g. a probation search during a car stop). Additionally, a supervisor is not required during the service of search warrants via mail, email or fax transmission to:

- Financial institutions;
- Telephone/cellular companies requesting records;
- Other financial/business institutions for which the records will be produced at a later time;
- Electronic communication service providers; or
- When a search warrant is issued authorizing the scientific analysis of any item(s) already in the custody of law enforcement, the Court, or provided by any other person who has possession of such item(s).
- Any other exceptions must be approved by the Bureau's Chief Investigator or designee.

The on-scene supervisor shall ensure the premises are photographed and/or a video recording is made to document the condition of the premises before and after the search, and that the premises are adequately secured. If the premises cannot be secured, the arrestee(s) shall be advised, and at their discretion a reasonable attempt will be made to contact a responsible party prior to departing. If necessary, a County boarding crew will be summoned to secure the premises.

See Oziel v. Superior Ct. (1990) 223 Cal. App. 3d 1284 Investigators should seek authorization in the search warrant as justified in the affidavit to video tape the entire scene because of privacy issues.

509.12.3 ADMINISTRATIVE DOCUMENTATION

Any damage to personal property that occurs as a result of a forced entry or by an intentional or unintentional act by law enforcement personnel shall first be photographed and then documented in a crime report describing the damaged article and the circumstances under which the damage occurred. The on-scene supervisor and the primary investigating officer will be advised of the damage.

The on-scene supervisor shall ensure that the responsible party for the property is advised of any damage and of the procedure for filing a claim with the County of Santa Clara.

509.12.4 CONCLUSION OF THE SEARCH

The primary investigator or designee shall ensure all items of evidence have been collected and the chain of custody maintained until said property is booked in the property room of the Santa Clara District Attorney's Office (or other County Law Enforcement property rooms should the assignment or circumstances require it).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

When property is taken under a search warrant, the primary investigator or designee shall give a signed copy of the search warrant and a receipt for the property taken (specifying it in detail) to the person from whom it was taken, or in whose possession it was found; or, in the absence of any person, the investigator shall leave it in the place where he/she found the property. Each assigned investigator shall ensure that all personal items, Operational Plans, affidavits, safety equipment and all tools used for searching and entry are collected and removed from the scene.

509.12.5 COMPLETION OF A CRIME REPORT

The specific role and actions of each investigator involved in the service of a search warrant or a probation or parole search shall be documented in a crime report. Parole or probation searches of a vehicle or person which are conducted incident to a traffic stop or pedestrian check shall also be documented when a person is arrested and/or evidence seized. Should an arrest not be made and/or evidence not be seized during a vehicle or person stop, the event and search should be documented with a County Communications CAD entry.

The crime report shall include, but not be limited to, the following information:

(a) Date, time, and location of the event.

(b) The identity of and the statement(s) made by an investigator(s) making Penal Code §844/1531 demands.

(c) Use and type of force employed, if any, during the entry or event.

(d) Participants and assignments – e.g. search, finder, evidence, entry.

(e) Identity of suspect(s) and/or witnesses encountered at the scene.

(f) Statements made by suspect(s) and/or witness(es).

(g) Any injuries incurred by investigators, witnesses or suspects.

(h) Evidence seized.

(i) Any damage to property.

(j) Location of, or the person given, a copy of the search warrant and listing of the items seized (if applicable).

The primary investigator shall ensure that the search warrant return is filed with the issuing court within the legal prescribed time limit, whether or not any items were seized pursuant to the warrant.

509.12.6 OPERATIONAL DEBRIEFING

An operational debriefing is a professional discussion, focused on performance, which enables participants to discover for themselves what happened, why it happened, and how to sustain strengths and improve on weaknesses.

Supervisors should take the opportunity to debrief the outcomes of events that required an Operational Plan (or others as deemed appropriate) as soon as practical. Although it is preferable

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

to conduct a debriefing with all key participants, time and schedules may not allow for this preferred outcome. Supervisors should consider the following during an operational debriefing:

- Scale depending on the complexity of the operation
- Led by the primary investigator of the operation
- Identify what went well
- Identify what can be improved upon
- Identify what could or should have been done differently
- Identify what will be done to better prepare for future operations
- If appropriate, make recommendations to the Chief Investigator for tools, training, techniques and/or policy changes

509.13 ADDITIONAL PENAL CODE SECTIONS ASSOCIATED WITH SEARCH WARRANTS

The following Penal Code sections deal with search warrants. All investigators should read and become familiar with these sections:

1523 P.C. - Search Warrant Defined

1524 P.C. - Grounds for Issuance

1525 P.C. - Probable Cause

1527 P.C. - Affidavit

1529 P.C. - Form of Search Warrant

1530 P.C. - Who May Serve a Search Warrant

1531 P.C. - Knock/Notice

1533 P.C. - Time of Service

1534 P.C. - Expiration

1535 P.C. - Receipt of Property Seized

1536 P.C. - Retention of Property Seized

1537 P.C. - Inventory (Return to Search Warrant)

1546 P.C. - CalECPA Definitions

1546.1 P.C. - Electronic Information Warrant Requirements

1546.2 P.C. - Notification of Target of Search

1546.4 P.C. - Suppression of Electronic Information

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Covert Operations

510.1 PURPOSE AND SCOPE

Covert law enforcement activities can be integral to the investigative process, while posing unique challenges that must be addressed to ensure the safety of involved personnel. Bureau of Investigation personnel will ensure that all reasonably foreseeable safety and operational considerations are identified and addressed in accordance with this policy.

510.2 PROCEDURE

Prior to a District Attorney Investigator becoming involved in a traditional covert operation, the investigator shall confer with his/her unit supervisor. The unit supervisor shall brief the Chief Investigator, or designee, prior to the initiation of any undercover operation. In the absence of the unit supervisor the investigator shall confer directly with the Chief Investigator, or designee, prior to initiating any such operation.

All undercover operations, aside from online, telephonic, or other technology driven interactions, will be documented in a written operational plan. The operational plan will be approved through the chain of command prior to the commencement of any undercover operation. Each activity in which Bureau of Investigation personnel act in a covert capacity, aside from undercover activities not requiring direct personal contact, will be documented on individual operations plans.

While a covert operation is active, the primary investigator shall meet daily with the unit supervisor to provide progress reports. The unit supervisor is responsible for the direction of the operation.

The unit supervisor shall brief the Chief Investigator, or designee, as appropriate during the course of the operation.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Use of Cold Internet Protocol (IP) Address Computer

511.1 PURPOSE AND SCOPE

The Bureau of Investigation (BOI) will establish and maintain a stand-alone computer with a cold internet protocol (IP) address to be utilized by Bureau investigators when searching social networking sites and conducting other Internet based covert investigations. The computer will allow Bureau investigators to discretely search for, observe, gather and preserve digital evidence, pursuant to a Bureau investigation.

511.2 PROCEDURE

The "Cold IP Address Computer" will be administered by a Bureau lieutenant or designee. The computer will be secured in locked office #354. Prior to using the computer, each investigator will receive training in the proper use of the device. An instruction manual will also be provided. The Administrator or designee will grant original access to the computer upon request. A unique user account will be created with the password known only to the investigator and Administrator. User activity will be monitored by the Administrator or designee, with the installation of software that monitors and preserves user log in, activity, keystrokes and screen shots. Users will not be able to access or make changes to the monitoring software.

An Investigator can gain assess to the computer at the request of any Bureau lieutenant.

The Cold IP Address Computer may be used to conduct covert online investigations to include accessing social networking sites, chat, blogging, contact and locate witnesses/suspects, posing as a consumer on fraud related cases, and other similar covert investigations. The main premise behind the utilization of this computer is to limit the ability of a suspect to trace back online search functions by investigators to the County of Santa Clara and/or the District Attorney's Office.

The computer shall **NOT** be used for proactive online sexual exploitation related investigations to include, but not limited to, child pornography, child predator and human trafficking investigations. These types of investigations should only be conducted by agencies holding jurisdiction or by investigators assigned to the High-Tech Crimes Unit at the Santa Clara County Crime Lab. The Chief Investigator shall be notified and approve of any uses of the Cold IP Address Computer not specifically authorized by this policy. Any evidence obtained through use of the cold IP computer shall be properly documented in a report and the evidence preserved and stored according to Bureau policy.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Communication with Represented and/or In-Custody Persons

512.1 PURPOSE AND SCOPE

Determining whether, when, and how law enforcement may communicate with persons in custody and/or represented by counsel requires a detailed analysis of the legal status of the individual involved and the application of often complex and confusing law relating to that individual's constitutional rights under the Fifth and Sixth Amendments (right against self-incrimination and right to counsel).

In addition to these constitutional duties applying to all law enforcement, Bureau of Investigation investigators are bound by the California State Bar Rule of Professional Conduct 4.2 which governs the conduct of all attorneys, and their agents, in dealing with represented parties.

512.2 PROCEDURE

Investigators shall be familiar with Santa Clara County District Attorney Policy Section 5.01(b)(ii)3 "Communication with Represented Persons" and shall comply with all constitutional and statutory rules governing communications with persons in custody and/or represented by counsel.

In concert with policy 5.01(b)(ii)3 and CRPC 4.2, investigators shall comply with the following guidance:

(a) Should an investigator be contacted by person who is known to be represented by an attorney, investigators should not talk with the person concerning the subject of that representation without the consent of the person's attorney. It does not make a difference whether the person is uncharged or is out of custody. If an investigator wishes to communicate with the person without the consent of the person's attorney, the investigator should first consult with the assigned deputy district attorney to determine if communication might be authorized under one of the exceptions to the general prohibition on communication with represented persons (Professional Rules of Conduct, Rule 4.2)

(b) Before an investigator contacts anyone who is in custody, the investigator should consult with a deputy district attorney about whether such contact is permitted. Before speaking with the district attorney, an investigator should know the answer to the following questions:

1. Has the person in custody invoked his right to counsel or silence during a custodial interrogation?
2. Was the person ever released from custody after the invocation and, if so, for how long?
3. Is the person being held in custody solely because he was arrested on the crime for which he invoked his or her right to counsel?
4. Is the person going to be questioned as a suspect or a witness?

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

5. Has the person been charged with or arraigned on any crime?
6. Is the person represented by an attorney, either on the offense for which he or she is in custody or on the offense about which the investigator wishes to speak about?
7. Is the need to communicate with the person part of an investigation into a different crime than the crime(s) for which the person is in custody?
8. What is the status of all pending criminal matters against the person to be interviewed, including any known cases in which the person, although uncharged, is the suspect in the investigation?

(c) Contacts with persons in custody or with a represented person **must** be approved by an assistant district attorney after a full discussion with the deputy district attorney, the Bureau investigator and a review by the investigator's supervisor.

1. A detailed account of any attempts by any members of law enforcement to take a statement from the person to be interviewed, including any admonitions given and the response(s)
2. Any reports, including any audio or video memorialization, of the prior interviews or attempts to interview.

(d) If the person has invoked his right to counsel during custodial interrogation and has remained in custody since that time, the person may **not** be contacted and asked any questions that are reasonably likely to incriminate the person.

512.2.1 IMPLEMENTATION

(a) If the person is represented and the communication will concern the subject matter of the representation, any contact must either clearly fall within the investigation exception to the "no-contact" rule or be authorized by a court order. Questions about whether the investigation exception applies or how to obtain a court order should be directed to the assigned deputy district attorney.

(b) If the person is in custody (and contact is permitted because he or she did not invoke his or her right to counsel during custodial interrogation) but is going to be asked questions reasonably likely to elicit an incriminating response, the person must be given the admonition and waive his or her rights.

(c) If the person is represented but the interview will not concern the subject matter of the representation, the person should be informed that there will be (and can be) no discussion of the crime for which the person has representation.

(d) Absent compelling circumstances, the investigator will either video or audio record the entire contact with any person, whether or not the person is in custody, where questions reasonably likely to elicit an incriminating response will be asked.

(e) Should the person begin speaking about the matter that is the subject of the representation, the investigator must immediately remind the person that the interview is about a different subject and tell the person the investigator cannot discuss matters relating to the crime for which the person is represented.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(f) The following is suggested language to use when the person being interviewed changes the topic to his or her own self interest or his or her own other cases:

I cannot talk to you about that case or any other case you are represented on by an attorney. I am here to talk with you only about [describe the topic of the interview]. An attorney may represent you on one or more of those other cases. If you want to discuss them with me have your lawyer call [name of assistant district attorney]. Let's go back to [the topic].

512.3 DOCUMENTATION

Any communication with a represented or in-custody person should be documented in a crime report. Investigators should also note the same information in CiberLaw and include any discussion and decision (if applicable) by the assistant district attorney and deputy district attorney authorizing the communication with the represented or in-custody person. Finally, investigators should document any "compelling" reason(s) an interview could not be audio or video recorded in CiberLaw and in the crime report.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Inmate Requests for Service or Contact

513.1 PURPOSE AND SCOPE

Occasionally the District Attorney's Office receives inmate requests that range from wanting to talk with a DA; to a claim some wrong has befallen him or her; or to provide information. Some of these requests are made on a standard jail form while others are made in letters.

Investigators receiving an inmate request should immediately forward them to the Chief Investigator's Confidential Legal Secretary via their chain of command. The Chief Investigator's Confidential Legal Secretary will ensure that they are forwarded to the Supervising Paralegal for proper disposition.

513.2 PROCUDURE

513.2.1 INVESTIGATORS

When investigative staff receive a written request from an inmate (incarcerated in Federal, State, or County facility) they will notify the Chief Investigator by submitting a copy of said correspondence to the Chief's Confidential Legal Secretary on the same day of receipt or by the next business day.

If an inmate's request is routed to investigative personnel through the Chief Investigator's Confidential Legal Secretary, there is no need for notification.

513.2.2 CONFIDENTIAL LEGAL SECRETARY

When the Chief Investigator's Confidential Legal Secretary receives notification of an inmate correspondence from investigative personnel, he/her will make a copy of the correspondence and provide same to the Supervising Paralegal no later than the next business day. The Confidential Legal Secretary will maintain a record/log of all inmate requests.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Informants

514.1 PURPOSE AND SCOPE

The Bureau of Investigation recognizes that information provided by cooperating informants can be helpful during criminal investigations and as such are encouraged to develop criminal intelligence information via their recruitment and proper management. Investigators who obtain criminal intelligence information are responsible for bringing said information to the attention of those who can best utilize it, including but not limited to, the assigned Deputy District Attorney, state or federal prosecutor, and to the Supervising Deputy District Attorney (SuDDA) of the Narcotics Prosecution Team.

Great care and circumspection must be utilized when dealing with informants. Certain basic and general rules must be followed in order to utilize these sources to the fullest extent and to limit exposure to legal or civil liability to the individual investigator and/or to the Office of the District Attorney.

To protect the integrity of the Office of the District Attorney, Bureau, and the investigators using informants, it shall be the policy of the Bureau to take appropriate precautions by developing sound "informant" policies.

514.1.1 DEFINITIONS

Definitions related to this policy include:

Informant - Any person who provides information about criminal activity and/or actively assists law enforcement for reasons other than good citizenship. Common motivations include pending criminal matters, money, revenge, or anger. Any benefit conferred to a person in exchange for assistance, cooperation, or intelligence information creates an informant - law enforcement relationship.

514.2 PROCEDURE

The Chief Investigator or his/her designee shall be responsible for maintaining informant files. A separate file shall be maintained on each informant.

Each file shall be coded with an assigned informant control number. The following documents shall be included in each file:

- Informant Personal History
- Informant Admonition
- Informant Performance Record
- Informant File Checklist
- Informant Contract
- Informant Criminal History

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

The informant files shall be maintained in a secure area within the Bureau. These files shall be used in order to provide a source of background information about the informant. They will provide a way of reviewing and evaluating the information provided by the informant, and will minimize incidents that could be used to question the integrity of investigators or the reliability of the informant.

Access to the informant files shall be restricted to the Chief Investigator, the Captain, or their designees. A copy of all informant files will also be provided to the SuDDA of the Narcotics Prosecution Team and all such files will be updated with regularity.

514.2.1 UTILIZATION OF AN INFORMANT

Before using an individual as an informant, an investigator must receive approval from his/her lieutenant. The investigator must attempt to ascertain the informant's reliability, and substantiate the information given by the informant. The investigator shall compile sufficient information, through a background investigation, in order to determine the reliability and credibility of the individual. Background checks will be updated quarterly. Information required to document a confidential informant shall be found on the **" Confidential Informant Management Form**" - See attachment: 514 Informant Management Documents.pdf.

The use of informants with pending criminal cases requires approval from the appropriate prosecuting agency. Similarly, the use of said informants shall be approved by the deputy district attorney assigned to prosecute the case in which the informant is providing information, as well as by the Narcotics Team SuDDA. Should a current prosecution or pending criminal case not exist, the investigator shall inform the SuDDA assigned to the type of crime being investigated to ensure said informant use will not hamper the ability of the Office to prosecute the case. The Narcotics Team SuDDA will also be advised of this information.

The use of informants who are three strikes candidates, violent offenders or offenders with a lengthy criminal history is generally not allowed; however, investigators shall first discuss the facts of the case with their assigned lieutenant and the DDA assigned to the case before making a final decision. In all circumstances, the investigator shall review and comply with **SCCDA Policy 5.03(c) "Confidential Informants."**

514.2.2 INFORMANT ADMONITION

All informants are required to sign and abide by the provisions of the Informant Admonition (see attached). The investigator shall discuss each of the provisions of the Informant Admonition with the informant. A second investigator should be present as a witness.

514.2.3 INFORMANT HANDLING

No member of the Bureau shall knowingly maintain a social relationship with an informant, or become intimately involved with an informant. Members of the Bureau shall not solicit or accept gratuities or engage in any private business transaction with an informant. The relationship between investigator and informant must be ethical and professional.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

514.3 INFORMANT INTEGRITY

To maintain the integrity of the informant process, the following must be adhered to:

(a) The identity of an informant acting in a confidential capacity shall not be withheld from the Chief Investigator, Lieutenant, Investigation Bureau supervisor or their authorized designees.

(b) Identities of informants acting in a confidential capacity shall otherwise be kept confidential. The decision to reveal the identity of an informant rests with the Office of the District Attorney and the Chief Investigator, or his/her designee. Investigators shall reveal the identity of an informant when ordered to do so by the presiding judge or magistrate in a court proceeding. Investigators through the Office of the District Attorney may request a hearing on revealing the identity of an informant in a court proceeding (See Evidence Code Sections 1040-1042).

(c) Criminal activity by informants shall not be condoned. If such activity comes to the investigator's attention, the investigator shall immediately report the incident to his/her supervisor, who will notify the Chief Investigator or his/her designee.

(d) Investigators shall not meet with informants in a private place unless accompanied by at least one additional investigator or with prior approval of the Chief Investigator supervisor.

If an informant has a pending case that does not include a crime of violence or sexual misconduct, and has provided useful information about a criminal matter, the extent of the assistance may be brought to the attention of the assigned deputy district attorney and to the Narcotics Team SuDDA. Upon approval of the DDA, the investigator may bring said cooperation to the attention of the court. When an investigator's intention is to reward an informant in this manner, the investigator must follow the following steps:

(a) Investigator cannot promise or imply any sort of immunity from prosecution to the informant. An Assistant District Attorney can only grant immunity.

(b) Prior to recommending any consideration in the informant's case, approval from the Office of the District Attorney must be obtained.

(c) Any contact with the court will be done by the Office of the District Attorney, or by the investigator at the direction of the Office of the District Attorney and with concurrence of the Chief Investigator or his/her designee.

(d) If the pending case is from another jurisdiction, that agency must also grant permission to use the informant if the intention is to recommend consideration in that agency's case.

An informant that has not been charged with a crime may be rewarded with money for productive information or assistance. Investigators will meet with their lieutenant to determine if any funds will be provided to an informant. This will be done prior to any promises to the informant. The Chief Investigator or his/her designee will set the appropriate amount. All payments to informants must be documented on the Office of the District Attorney voucher and BOI-Informant Performance Record (see attached).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

The use of minor informants, under the age of 13, is prohibited. Except as provided for the enforcement of the Tobacco Enforcement Act, Business & Professions Code 22950 - 22963, the use of any minor informant between the ages of 13 and 18 years is only authorized by court order, obtained pursuant to Penal Code 701.5, and requires parental approval. It is the practice of the Bureau and the Office of the District Attorney to avoid the use of minor informants.

Nothing prohibits an investigator from obtaining criminal intelligence information from a juvenile during an initial interview. Active participation, which must be authorized, occurs when a juvenile informant is directed by an investigator to do something which will further an investigation.

Bureau investigators assigned to a task force shall follow the informant policy of that task force. In the absence of an informant policy, investigators will adhere to this policy.

514.3.1 UNSUITABLE INFORMANTS

The suitability of any informant should be considered before engaging him/her in any way in a covert or other investigative process. Members who become aware that an informant may be unsuitable will notify the supervisor, who will initiate a review to determine suitability. Until a determination has been made by a supervisor, the informant should not be used by any member. The supervisor shall determine whether the informant should be used by the Office and, if so, what conditions will be placed on his/her participation or any information the informant provides. The supervisor shall document the decision and conditions in file notes and mark the file "unsuitable" when appropriate.

Considerations for determining whether an informant is unsuitable include, but are not limited to, the following:

(a) The informant has provided untruthful or unreliable information in the past.

(b) The informant behaves in a way that may endanger the safety of an investigator.

(c) The informant reveals to suspects the identity of an investigator or the existence of an investigation.

(d) The informant appears to be using his/her affiliation with this Office to further criminal objectives.

(e) The informant creates officer-safety issues by providing information to multiple law enforcement agencies simultaneously, without prior notification and approval of each agency.

(f) The informant engages in any other behavior that could jeopardize the safety of investigators or the integrity of a criminal investigation.

(g) The informant commits criminal acts subsequent to entering into an informant agreement.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Recording of Communication

515.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of audio/video recording devices by members of this office while in the performance of their duties.

515.2 PROCEDURE

Penal Code Section 633 authorizes district attorney investigators to overhear or record communications while acting within the scope of employment.

The following conditions and restrictions shall be followed by district attorney investigators when recording any communication without the knowledge and/or consent of the party being recorded.

a) The investigator must be acting in an official capacity and the recording must relate to an assigned criminal investigation.

b) If the person to be recorded is a law enforcement officer, an attorney, or a public official, clearance must be received from the investigator's supervisor and the Chief Investigator, or designee, prior to recording the individual without his or her knowledge and/or consent.

c) If the supervisor approves the recording of communication involving such officials, the supervisor will notify the Chief Investigator, or designee, for approval prior to any such recording.

d) Investigators may designate an individual as an agent to covertly record specific communications. Recordings of communications by a person designated as an agent shall relate to an assigned criminal investigation. The investigator shall notify their supervisor or Chief Investigator when he or she designates an agent to surreptitiously record communications.

e) Investigators shall be mindful of, and ensure compliance with, the current Surveillance Technology Policy governing the use of digital recording devices.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Copy or Viewing Pornographic Material

516.1 PURPOSE AND SCOPE

In most cases, there is no necessity for investigators to make copies of pornographic materials. If, because of a lawful court order, discovery motions, etc., it becomes necessary to have copies made of such material, copies will be made only at the direction of the relevant prosecutor through the Investigative Request (IR) process and with concurrence of the Chief Investigator or designee. Upon receipt of an IR, investigators should forward said request to the Digital Multi-Media Evidence Unit at the Crime Lab and coordinate with staff to complete the task.

516.2 PROCEDURE

Examination of any media that is suspected to contain potentially offensive material, contraband images or other graphic images, should only occur after all necessary precautions have been taken to prevent these images from being viewed by unauthorized persons. Investigators assigned to the Digital Multi-Media Evidence Unit shall follow Santa Clara County Crime Lab protocols to ensure the privacy of such images. Investigators assigned to the main office or task force assignments shall follow privacy protocols as directed by the task force commander or respective unit lieutenant. If necessary, the unit lieutenant may seek approval from the Chief Investigator or designee to utilize the "cold computer" to view such material. Investigators shall not download said images to their desktop/laptop computer and shall only view the images from the media provided (CD, DVD, flash drive, etc.). Access to such images will be limited to personnel deemed to have a "Right to Know" and a "Need to Know". Personnel shall consider taking the following precautions whenever examining contraband images, offensive material, or other graphic images:

(a) Adjust computer monitors so they do not face doors and accessible windows.

(b) Position computer monitors in such a way that persons not directly involved in the investigation are unable to view images displayed.

(c) Images will not be printed from publicly accessible printers.

(d) Images copied for court purposes will be stored in such a way that the contents are clearly labeled and all copies will be delivered only to the prosecutor requesting that copies be made. In the event that the copied material cannot be immediately delivered to the requesting prosecutor, all material will be stored in a closed container within a locked office, locked cabinet or other locked container until delivery to the prosecutor can be made.

516.2.1 COPYING OF MATERIAL

IR requests that seek to have investigators copy pornographic or similar material shall be forwarded to the Digital Multi-Media Evidence Unit (DMME) at the County Crime Lab for processing. Investigators should coordinate with the DMME supervisor to ensure the material is processed and then packaged and delivered in a manner to ensure the contents are not viewable by unauthorized persons. Copies of suspected child pornography or other graphic

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

images of children or adults (e.g. SART examination photos) shall not be maintained in Bureau of Investigation case folders; rather they shall be booked into evidence. Investigators shall not upload any sensitive image to any network drive.

Investigators unsure of how to handle or process sensitive images shall seek guidance from their respective unit lieutenant prior to processing the material.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Obtaining Records from the Clerk - Recorder's Office

517.1 PURPOSE AND SCOPE

Bureau employees obtaining records from the Santa Clara County Clerk-Recorder's Office shall utilize Bureau forms designed to simplify the process and allow the Clerk-Recorder to directly bill the fees to our office.

517.2 PROCEDURE

To obtain vital records from the Clerk-Recorder's Office, complete the following steps:

(a) Complete the Fee Transfer Authorization and Request for an Authorized Certified Copy of Record forms.

(b) Obtain expenditure approval from the Captain or Chief Investigator, and have the authorizing person sign the Fee Transfer Authorization form.

(c) Make a copy of the signed Fee Transfer Authorization form.

(d) Present the completed original forms to the Clerk-Recorder's Office to obtain the requested documents.

(e) Have the Clerk-Recorder write the transaction number on the Fee Transfer Authorization form copy.

(f) Deliver the Fee Transfer Authorization form copy to our office's Business Services Unit.

517.3 FEE TRANSFER AUTHORIZATION FORM

The Fee Transfer Authorization form eliminates the need to pay the Clerk-Recorder cash for documents and then obtain reimbursement from Business Services. One form may be used for multiple certified copies obtained at the same time. (See attached). This form is also available on the Bureau O-drive, folder titled O:\FORMS\REQUESTS FOR DOCUMENTS & OTHER MATERIAL (See attachment: PPM 517 Fee Transfer Authorization Form.pdf).

517.4 BIRTH, DEATH OR MARRIAGE CERTIFICATES

To obtain copies of a birth, death or marriage certificate, complete a Request for an Authorized Certified Copy of Record form. Use one form for each name searched. (See attached). This form is also available on the Bureau O-drive, folder titled O:\FORMS\REQUESTS FOR DOCUMENTS & OTHER MATERIAL (See attachment: PPM 517 Request for an Authorized Certified Copy of Record.pdf).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

517.5 OTHER OFFICIAL RECORDS

Copies of other official documents, such as Grant Deeds, etc., may be obtained using the Clerk-Recorder's Official Records Order form. This form is available on the Bureau O-drive, folder titled O:\FORMS\REQUESTS FOR DOCUMENTS & OTHER MATERIAL.There will be no charge for these copies (See attachment: PPM 517 Official Records Order Form.pdf).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Fugitives located in Foreign Countries

518.1 PURPOSE AND SCOPE

Arranging for the arrest and extradition of suspects from foreign nations necessitates coordination between the Office of the District Attorney and the United States Attorney General's Office, among others.

518.2 POLICY

Investigators who participate in an investigation which could involve the taking into custody of a defendant located in a foreign country, including Mexico, will notify and confer with the Chief Investigator prior to taking any affirmative action to have that defendant taken into custody in the foreign jurisdiction.

All efforts to gain custody of a fugitive in a foreign jurisdiction will be coordinated and arranged through proper legal channels. All efforts undertaken to affect the arrest will be properly documented.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Homicide Investigations

519.1 PURPOSE AND SCOPE

Designated investigators assigned to the Bureau of Investigation Homicide Team shall have the responsibility of assisting trial attorneys in the preparation of homicide cases for court presentation, as well as assisting police agencies in their homicide investigations when needed.

519.2 PROCEDURE

The primary responsibility of the homicide investigator is to assist the assigned attorney in preparing homicide cases for trial. This may include, but is not limited to, such duties as:

1. Locating, interviewing, transporting or subpoenaing witnesses or suspects.
2. Serving search warrants or other legal processes.
3. Preparing court exhibits and taking photographs.
4. Obtaining and correlating police reports, coroner's reports, laboratory reports, as well as other documents pertinent to the homicide investigation.
5. Preparing investigation reports to describe the progress of the investigation and to record interviews with witnesses or suspects.
6. Maintenance of an investigation check list on each assigned homicide investigation case.

Upon assignment of a homicide investigation, the assigned investigator should:

1. Read the police report and contact the Deputy District Attorney who has been assigned the case for prosecution to discuss the case and outline what additional work may be needed.
2. Contact the detective(s) handling the case so that proper liaison and division of labor may be accomplished.
3. Begin to do any additional work that has been identified in concurrence with or requested by the prosecutor which may include tasks such as:
   (a) Ensure that all physical evidence has been collected by the police agency from the Coroner's Office and that coroner reports, lab reports and death certificates are in the file.
   (b) Ensure that all relative physical evidence has been transported to the Crime Lab for analysis and that the analysis requested is appropriate. Any concerns about the laboratory work should immediately be communicated to the trial attorney.
   (c) Ensure that all relevant police dispatch communications are preserved and copied onto CD or electronic file.
   (d) The assigned investigator will maintain appropriate contact with the prosecuting attorney as the case progresses and the need dictates.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Domestic Violence

520.1 PURPOSE AND SCOPE

Domestic violence is criminal conduct and it is the policy of the Santa Clara County District Attorney's Office to stress enforcement of criminal laws related to domestic violence, the protection of the victim, and the availability of civil remedies and community resources. This includes the arrest of domestic violence offenders if there is probable cause to believe an offense has occurred.

When confronted with incidents of domestic violence, investigators should generally be reluctant to make dual arrests. Investigators shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person determined to be the most significant, rather than the first, aggressor. In identifying the dominant aggressor, an investigator shall consider:

- The intent of the law to protect victims of domestic violence from continuing abuse
- The threats creating fear of physical injury
- The history of domestic violence between the persons involved
- Whether either person acted in self-defense

Investigators shall familiarize themselves with the Santa Clara County Domestic Violence Protocol to ensure understanding of local issues, procedures and policies.

520.1.1 DEFINITIONS

Definitions related to this policy include:

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

520.2 POLICY

Investigators may come upon incidents of domestic violence in the normal course of duties which may necessitate an arrest as required by this policy and the Penal Code.

When confronted with a case of domestic violence, investigators shall render the scene safe and shall request the response of the local law enforcement agency having jurisdiction over the incident. If necessary, investigators shall make an arrest of the suspect and render appropriate first aid to the victim prior to the law enforcement agency's arrival. Investigators shall then assist the local law enforcement agency in the appropriate application of the law as specified in this policy.

In most cases, investigators will take a supportive role to the local law enforcement agency handling a domestic violence incident, however; circumstances may dictate that independent

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

decisions may have to be made. Thus, it is critical that investigators understand the applicable laws, procedures and protocols related to the proper handling of a domestic violence incident.

520.3 OFFICER SAFETY

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

520.4 INVESTIGATIONS

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

(a) Calls of reported, threatened, imminent, or ongoing domestic violence and the violation of any court order are of extreme importance and should be considered among the highest response priorities. This includes incomplete 9-1-1 calls.

(b) When practicable, investigators should obtain and document statements from the victim, the suspect, and any witnesses, including children, in or around the household or location of occurrence.

(c) Investigators should list the full name and date of birth (and school if available) of each child who was present in the household at the time of the offense. The names of other children who may not have been in the house at that particular time should also be obtained for follow-up.

(d) When practicable and legally permitted, video or audio record all significant statements and observations.

(e) All injuries should be photographed, regardless of severity, taking care to preserve the victim's personal privacy. Where practicable, photographs should be taken by a person of the same sex. Victims whose injuries are not visible at the time of the incident should be asked to contact the Bureau of Investigation in the event that the injuries later become visible.

(f) Investigators should request that the victim complete and sign an authorization for release of medical records related to the incident when applicable.

(g) If the suspect is no longer at the scene, investigators should make reasonable efforts to locate the suspect to further the investigation, provide the suspect with an opportunity to make a statement, and make an arrest or seek an arrest warrant if appropriate.

(h) Seize any firearms or other dangerous weapons in the home, if appropriate and legally permitted, for safekeeping or as evidence. If the domestic violence involved threats of bodily harm, any firearm discovered in plain view or pursuant to consent or other lawful search must be taken into temporary custody (Penal Code § 18250).

(i) When completing an incident or arrest report for violation of a court order, investigators should include specific information that establishes that the offender has been served,

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

including the date the offender was served, the name of the agency that served the order, and the provision of the order that the subject is alleged to have violated. When reasonably available, the arresting investigator should attach a copy of the order to the incident or arrest report.

(j) Investigators should take appropriate enforcement action when there is probable cause to believe an offense has occurred. Factors that should not be used as sole justification for declining to take enforcement action include:

1. Whether the suspect lives on the premises with the victim.
2. Claims by the suspect that the victim provoked or perpetuated the violence.
3. The potential financial or child custody consequences of arrest.
4. The physical or emotional state of either party.
5. Use of drugs or alcohol by either party.
6. Denial that the abuse occurred where evidence indicates otherwise.
7. A request by the victim not to arrest the suspect.
8. Location of the incident (public/private).
9. Speculation that the complainant may not follow through with the prosecution.
10. Actual or perceived characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, disability, or marital status of the victim or suspect.
11. The social status, community status, or professional position of the victim or suspect.

520.4.1 IF A SUSPECT IS ARRESTED

If a suspect is arrested, investigators should:

(a) Advise the victim that there is no guarantee the suspect will remain in custody.

(b) Provide the victim's contact information to the jail staff to enable notification of the victim upon the suspect's release from jail.

(c) Advise the victim whether any type of court order will be in effect when the suspect is released from jail.

520.4.2 IF NO ARREST IS MADE

If no arrest is made, the investigator should:

(a) Advise the parties of any options, including but not limited to:

1. Voluntary separation of the parties.
2. Appropriate resource referrals (e.g., counselors, friends, relatives, shelter homes, victim witness unit).

(b) Document the resolution in a report.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

520.5 VICTIM ASSISTANCE

Victims may be traumatized or confused. Investigators should:

(a) Recognize that a victim's behavior and actions may be affected.

(b) Provide the victim with the bureau's domestic violence information handout, even if the incident may not rise to the level of a crime.

(c) Alert the victim to any available victim advocates, shelters and community resources.

(d) Stand by for a reasonable amount of time when an involved person requests law enforcement assistance while removing essential items of personal property.

(e) Seek medical assistance as soon as practicable for the victim if he/she has sustained injury or complains of pain.

(f) Ask the victim whether he/she has a safe place to stay. Assist in arranging to transport the victim to an alternate shelter if the victim expresses a concern for his/her safety or if the investigator determines that a need exists.

(g) Make reasonable efforts to ensure that children or dependent adults who are under the supervision of the suspect or victim are being properly cared for.

(h) Seek or assist the victim in obtaining an emergency order if appropriate.

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

520.6 FOREIGN COURT ORDERS

Various types of orders may be issued in domestic violence cases. Any foreign court order properly issued by a court of another state, Indian tribe, or territory shall be enforced by investigators as if it were the order of a court in this state. An order should be considered properly issued when it reasonably appears that the issuing court has jurisdiction over the parties and reasonable notice and opportunity to respond was given to the party against whom the order was issued (18 USC § 2265). An otherwise valid out-of-state court or foreign order shall be enforced, regardless of whether the order has been properly registered with this state (Family Code § 6403).

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

520.7 VERIFICATION OF COURT ORDERS

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

(a) Ask the subject of the order about his/her notice or receipt of the order, his/her knowledge of its terms and efforts to respond to the order.

1. If a determination is made that a valid foreign order cannot be enforced because the subject has not been notified or served the order, the investigator shall inform

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

the subject of the order, make a reasonable effort to serve the order upon the subject, and allow the subject a reasonable opportunity to comply with the order before enforcing the order. Verbal notice of the terms of the order is sufficient notice (Family Code § 6403).

(b) Check available records or databases that may show the status or conditions of the order.

1. Registration or filing of an order in California is not required for the enforcement of a valid foreign order (Family Code § 6403).

(c) Contact the issuing court to verify the validity of the order.

(d) Contact a law enforcement official from the jurisdiction where the order was issued to verify information.

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

520.8 LEGAL MANDATES AND RELEVANT LAWS

California law provides for the following:

520.8.1 STANDARDS FOR ARRESTS

Investigators investigating a domestic violence report should consider the following:

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

1. Investigators are only authorized to make an arrest without a warrant for a misdemeanor domestic violence offense if the investigator makes the arrest as soon as probable cause arises (Penal Code § 836).

(b) An investigator responding to a domestic violence call who cannot make an arrest will advise the victim of his/her right to make a private person's arrest. The advisement should be made out of the presence of the suspect and shall include advising the victim how to safely execute the arrest. Investigators shall not dissuade victims from making a lawful private person's arrest. Investigators should refer to the provisions in the Private Persons Arrests Policy for options regarding the disposition of private person's arrests (Penal Code § 836(b)).

(c) Investigators shall not cite and release a person for the following offenses (Penal Code § 853.6(a)(3)):

1. Penal Code § 243(e)(1) (battery against spouse, cohabitant)

2. Penal Code § 273.5 (corporal injury on spouse, cohabitant, fiancé/fiancée, person of a previous dating or engagement relationship, mother/father of the offender's child)

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

3. Penal Code § 273.6 (violation of protective order) if violence or threats of violence have occurred or the suspect has gone to the workplace or residence of the protected party
4. Penal Code § 646.9 (stalking)
5. Other serious or violent felonies specified in Penal Code § 1270.1

(d) In responding to domestic violence incidents, including mutual protective order violations, investigators should generally be reluctant to make dual arrests. Investigators shall make reasonable efforts to identify the dominant aggressor in any incident. The dominant aggressor is the person who has been determined to be the most significant, rather than the first, aggressor (Penal Code § 13701). In identifying the dominant aggressor, an investigator shall consider:

1. The intent of the law to protect victims of domestic violence from continuing abuse.
2. The threats creating fear of physical injury.
3. The history of domestic violence between the persons involved.
4. Whether either person acted in self-defense.

(e) An arrest shall be made when there is probable cause to believe that a violation of a domestic violence court order has been committed (Penal Code § 13701; Penal Code § 836), regardless of whether the offense was committed in the investigator's presence. After arrest, the investigator shall confirm that a copy of the order has been registered, unless the victim provides a copy (Penal Code § 836).

520.8.2 COURT ORDERS

(a) An investigator who obtains an emergency protective order from the court shall serve it on the restrained person if the person can be reasonably located, and shall provide the person protected or the person's parent/guardian with a copy of the order. The investigator shall file a copy with the court as soon as practicable and shall have the order entered into the computer database system for protective and restraining orders maintained by the Department of Justice (Family Code § 6271; Penal Code § 646.91).

(b) At the request of the petitioner, an investigator at the scene of a reported domestic violence incident shall serve a court order on a restrained person (Family Code § 6383; Penal Code § 13710).

(c) Any investigator serving a protective order that indicates that the respondent possesses weapons or ammunition shall request that the firearm/ammunition be immediately surrendered (Family Code § 6389(c)(2)).

(d) During the service of a protective order any firearm discovered in plain view or pursuant to consent or other lawful search shall be taken into temporary custody (Penal Code § 18250).

(e) If a valid Canadian order cannot be enforced because the person subject to the order has not been notified or served with the order, the investigator shall notify the protected individual that reasonable efforts shall be made to contact the person subject to the

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

order. The investigator shall make a reasonable effort to inform the person subject to the order of the existence and terms of the order and provide him/her with a record of the order, if available, and shall allow the person a reasonable opportunity to comply with the order before taking enforcement action (Family Code § 6452).

520.8.3 PUBLIC ACCESS TO POLICY

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

520.8.4 REPORTS AND RECORDS

(a) A written report shall be completed on all incidents of domestic violence. All such reports should be documented on the appropriate form, which includes information and notations specific to domestic violence incidents as required by Penal Code § 13730.

(b) Reporting investigators should provide the victim with the case number of the report. The case number may be placed in the space provided on the domestic violence victim information handout provided to the victim. If the case number is not immediately available, an explanation should be given regarding how the victim can obtain the information at a later time.

(c) Investigators who seize any firearm or other deadly weapon in a domestic violence incident shall issue the individual possessing such weapon a receipt that includes the name and residential mailing address of the owner or person who possessed the weapon and notice of where the weapon may be recovered, along with the applicable time limit for recovery (Penal Code § 18250; Penal Code § 18255; Penal Code § 33800; Family Code § 6389(c)(2)).

520.8.5 RECORD-KEEPING AND DATA COLLECTION

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

520.8.6 DECLARATION IN SUPPORT OF BAIL INCREASE

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Child Abuse

521.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Santa Clara County District Attorney's Office Bureau of Investigation investigators are required to notify the county Department of Family and Children Services (DFCS) of suspected child abuse.

Investigators should also be familiar with the current Santa Clara County Police Chief's Association "Child Abuse Protocol for Santa Clara County Law Enforcement" as an additional reference when investigating a child abuse case.

521.1.1 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).

521.2 POLICY

Bureau investigators are mandatory reporters as defined in Penal Code §11165.7(a)(18) and as such, shall report, by phone, immediately or as soon as practically possible any suspected child abuse or child neglect to the law enforcement agency having jurisdiction, or to any police department, or to the Emergency Response Screen Unit of the DFCS as required by Penal Code §11166(a).

Failure to comply with the reporting requirement of Penal Code §11166(a) is a misdemeanor. As defined in Penal Code §11166(b), the intentional concealment of the failure to report is a continuing offense until the offense is discovered.

521.3 MANDATORY NOTIFICATION

Bureau of Investigation investigators shall notify DFCS 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.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

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 (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.

521.3.1 NOTIFICATION PROCEDURE

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

(a) Notification to DFCS shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.

(b) A written follow-up report is to be prepared and sent, faxed or electronically transmitted to DFCS (Form SS8572 – Suspected Child Abuse Report) within 36 hours of receiving the information concerning the incident.

521.4 QUALIFIED INVESTIGATORS

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

(a) Conduct interviews in child appropriate interview facilities.

(b) Be familiar with forensic interview techniques specific to child abuse investigations.

(c) Present all cases of alleged child abuse to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.

(e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.

(f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

521.5 INVESTIGATIONS AND REPORTING

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

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

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(a) The overall basis for the contact. This should be done by the investigating investigator in all circumstances where a suspected child abuse victim was contacted.

(b) The exigent circumstances that existed if investigators interviewed the child victim without the presence of a parent or guardian.

(c) Any relevant statements the child may have made and to whom he/she made the statements.

(d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.

(e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.

(f) Whether the child victim was transported for medical treatment or a medical examination.

(g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.

(h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.

(i) Previous addresses of the victim and suspect.

(j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

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

521.5.1 EXTRA JURISDICTIONAL REPORTS

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

521.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the investigatorshould make reasonable attempts to contact DFCS to activate the Joint Response Protocol to ensure the response of a social worker at the scene. Generally, removal of a child from his/her family, guardian or other responsible adult should be left to the DFCS authorities when they are present or have become involved in an investigation.

Generally, members of this office should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the investigator should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the investigatorshall confer with the DFCS social worker in deciding appropriate placement.

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

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

(a) The investigator reasonably believes the child is a person described in Welfare and Institutions Code § 300, or a commercially exploited child under Penal Code § 647 and Penal Code § 653.22, and further has good cause to believe that any of the following conditions exist:

1. The child has an immediate need for medical care.
2. The child is in immediate danger of physical or sexual abuse.
3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the investigator shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.

(b) The investigator reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:

1. It reasonably appears to the investigator that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
2. There is no lawful custodian available to take custody of the child.
3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
4. The child is an abducted child.

(c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of a child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

521.6.1 CHILD TRANSPORT

A child taken into protective custody should be transported by the DFCS social worker unless:

(a) The child is under the influence of drugs or alcohol;

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(b) The child is uncooperative, violent, assaults a worker, or if a family member is threatening the social worker;

(c) The child is in custody for a crime;

(d) The child has assaulted Children's Center or Assessment Center staff in the past;

(e) The child has serious health issues or is incapacitated such that medical transport is more appropriate;

(f) If in the professional judgment of the social worker, such transport would result in an unacceptable risk.

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

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

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

521.7 INTERVIEWS

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

521.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW
An investigator should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

(a) Exigent circumstances exist, such as:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

1. A reasonable belief that medical issues of the child need to be addressed immediately.
2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger

(b) A court order or warrant has been issued.

521.7.3 INTERVIEWS AT A SCHOOL

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

521.8 MEDICAL EXAMINATIONS

If the child has been the victim of abuse that requires a medical examination, the investigating investigator should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The investigator should also arrange for the child's transportation to the appropriate medical facility.

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

521.9 DRUG-ENDANGERED CHILDREN

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

521.9.1 INVESTIGATOR RESPONSIBILITIES

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

(a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.

(b) Notify the Bureau of Investigation supervisor so an interagency response can begin.

521.10 STATE MANDATES AND OTHER RELEVANT LAWS

California requires or permits the following:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

521.10.1 RELEASE OF REPORTS

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

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

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

521.10.3 CACI HEARING OFFICER

The Bureau of Investigation supervisor will normally serve as the hearing officer but must not be actively connected with the case that resulted in the person's name being submitted to CACI. Should the District Attorney’s Office Bureau of Investigation be the primary investigating agency, the lieutenant who supervises the investigating investigator would serve as the hearing officer.

Upon receiving a qualified request for removal, the hearing officer shall promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

521.10.4 CACI HEARING PROCEDURES

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

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

(a) Case reports including any supplemental reports

(b) Statements by investigators

(c) Statements from representatives of the District Attorney's Office

(d) Statements by representatives of a child protective agency who may be familiar with the case

After considering all information presented, the hearing officer shall make a determination as to whether the requesting party's name should be removed from the CACI list. Such determination shall be based on a finding that the allegations in the investigation are not substantiated (Penal Code § 11169).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney’s Office, Bureau of Inves igation

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the person's name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

The findings of the hearing officer shall be considered final and binding.

521.10.5 SEVERE CHILD INJURY AND DEATH TEAM

Members of the Bureau of Investigation are part of the Santa Clara County Severe Child Injury and Death (SCID) team. As such, those members shall comply with the Santa Clara County Police Chief's Association Child Abuse Protocol as to their cooperation with the other SCID team members. Members of the Bureau's SCID team will attend the monthly Child Death Review team meetings when required. Written and oral information relating to the death of a child that would otherwise be subject to release restrictions may be disclosed to the Child Death Review team upon written request and approval of a supervisor (Penal Code § 11174.32).

521.11 TRAINING

The Department should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

(a) Participating in multidisciplinary investigations, as appropriate.

(b) Conducting forensic interviews.

(c) Availability of therapy services for children and families.

(d) Availability of specialized forensic medical exams.

(e) Cultural competence (including interpretive services) related to child abuse investigations.

(f) Availability of victim advocate or guardian ad litem support.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Sensitive Cases

522.1 PURPOSE AND SCOPE

Investigators may be assigned an investigation that has been classified as "Sensitive." Sensitive cases are, by their very nature, confidential and thus should not be discussed with others except for the assigned Deputy District Attorney(s), the District Attorney or designee(s), and the Chief Investigator or designee(s). Upon such assignment, investigators shall regularly update the Chief Investigator as to the progress of the investigation.

This policy shall not preclude an assigned investigator from working with other investigators during the course of his/her investigation. Should investigative assistance be required, the assigned investigator shall notify the Chief Investigator for approval prior to initiating investigative work by others. *Approval is not required for the submission of evidence to a criminal laboratory, forensic scientist/doctor or forensic accountant when directed by the assigned DDA or ADA.* Information provided to the assisting investigator(s) shall be limited to what is necessary to promote the successful conclusion of the investigation. All assisting investigators shall be held to the same confidentiality expectation as is the case investigator

522.2 PROCEDURE

Sensitive cases include the following:

(a) Any investigation involving misconduct of a public official

(b) Internal investigations within the Office of the District Attorney, a local or state government agency, or any other governmental or publicly funded organization

(c) Officer involved incidents (including in-custody deaths) - *Though Officer Involved Incidents are "sensitive" in regard to the confidentiality of the investigation, the case file shall be retained in BOI records*

(d) Any other investigation that is deemed by the Chief Investigator to be sensitive

Investigators shall not make public disclosures concerning sensitive investigations without prior review and approval by the Chief Investigator. Sensitive case files while in the possession of the assigned investigator shall be retained in a secure manner.

The origination, updates and closures of sensitive cases shall be completed through the Chief Investigator's Confidential Legal Secretary. Closed cases shall be retained in an appropriate and secure storage location.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Certificate of Rehabilitation and Pardons

523.1 POLICY

Upon receipt of a petitioner's application for a Certificate of Rehabilitation and Pardon, the Bureau of Investigation will complete an investigation report pursuant to Penal Code § 4852.12 for the signature of the assigned Deputy District Attorney (currently handled by the Motions Team).

Upon receipt of a petitioner's application for a Certificate of Rehabilitation and Pardon in another county, the Bureau of Investigation will report any criminal justice activity by the petitioner during the required period of rehabilitation to the District Attorney of that county. The Motions Team Assistant District Attorney will make the decision whether this Office wishes to formally oppose the Certificate of Rehabilitation and Pardon petition by sending a letter of opposition.

523.2 PROCEDURE

Upon receipt by the Santa Clara County District Attorney's Office ("Office"), all applications for Certificate of Rehabilitation and Pardon shall be forwarded to the Bureau of Investigation for assignment to an investigator. The assigned investigator should open an investigative file.

523.3 PETITIONS FILED IN SANTA CLARA COUNTY

The assigned investigator shall obtain the petitioner's felony file in order to review police and probation reports. The investigator shall obtain and review CJIC, CII and FBI criminal history reports, and DMV license, photo and car registration information for the petitioner. The investigator shall check the petitioner for warrants and for upcoming court dates.

After obtaining the criminal history reports and DMV documents, the investigator shall review the petition and facts contained within the petition to confirm the petitioner's eligibility for a Certificate of Rehabilitation.

1. All California felony convictions must be listed on the petition for Certificate of Rehabilitation and Pardon.
2. The petitioner must have served the District Attorney of other counties in which felony convictions occurred with notice that a Certificate of Rehabilitation and Pardon is being sought in this county.
3. The petitioner must reside within Santa Clara County.
4. The petitioner must have resided in California for the five-year period immediately preceding the petition being filed.
5. Petitioners who were convicted of felonies but not sent to prison must have obtained a Penal Code § 1203.4 dismissal prior to the petition being filed; and
6. The period of rehabilitation, a minimum of 7 to 10 years depending on the offense (specified in California Penal Code § 4852.03), must have been completed prior to the petition being filed.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

If, at any time, it is determined that the petitioner is ineligible for a Certificate of Rehabilitation, the investigator shall immediately notify the assigned Deputy District Attorney for a determination of appropriate action.

Within one week of being assigned a Certificate of Rehabilitation and Pardon investigation, the investigator shall send to the petitioner via U.S. mail:

1. A form letter explaining the District Attorney's involvement in the matter and requesting 3 letters of recommendation addressing his/her compliance with California Penal Code § 4852.05.
2. An investigative questionnaire to be completed and returned by the petitioner.
3. If petitioner is represented by counsel, the investigator shall send a form letter to petitioner's counsel explaining the District Attorney's involvement in the matter and request whether or not counsel will be involved in the scheduling of the appointment and/or the interview itself.

Within one week of receiving the petitioner's returned and completed questionnaire, the assigned investigator shall contact the petitioner or the petitioner's counsel and schedule an interview with him/her to be conducted at the District Attorney's Office. The investigator shall also direct the petitioner to bring verification of income to the interview.

During the interview, the investigator shall:

1. Review all of the petitioner's answers on the questionnaire and resolve any discrepancies or omissions.
2. Obtain a synopsis of the circumstances surrounding each felony conviction.
3. Obtain a synopsis of the circumstances of any criminal justice activity involving the petitioner during the required period of rehabilitation.
4. Obtain a photocopy of the petitioner's California driver's license or other official picture identification; and
5. Make contacts as necessary to corroborate statements made by the petitioner in the investigative questionnaire.

Utilizing the standard report format, the investigator shall prepare a report from the assigned Deputy District Attorney, to the court, for the Deputy District Attorney's signature.

1. The petitioner's letters of reference shall be attached to the report prior to its submission to the Deputy District Attorney for his/her signature.
2. Once signed by the Deputy District Attorney, three copies of the complete report shall be made.
3. The original shall be filed with the Superior Court Department that is currently hearing this type of petition.
4. The copies shall be delivered to:
   (a) The Investigator's report file.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(b) The assigned Deputy District Attorney or his/her designee.

(c) The petitioner (if pro per) or his/her attorney.

523.4 PETITIONS FILED IN OTHER COUNTIES/OUT OF STATE PETITIONERS

Investigators receiving cases regarding petitions filed in counties other than Santa Clara shall:

1. Obtain a CJIC criminal history report, and run warrants and upcoming court dates for the petitioner
2. Obtain the petitioner's felony file in order to review police and probation reports
3. Notify the Deputy District Attorney of any unusual circumstances or paperwork in the felony file. The Deputy District Attorney will decide if additional information will be provided to the District Attorney of the County in which the petition was filed
4. Notify the District Attorney of the county in which the petition was filed of any criminal justice activity during the required period of rehabilitation involving the petitioner, or the lack thereof, utilizing the standard form letter
5. If the petitioner resides out of state and has filed for Executive Clemency with the Governor, the notification of criminal justice activity shall be directed to the Board of Prison Terms

523.5 RESTORATION OF RIGHTS

523.5.1 GENERAL

An ex-felon becomes eligible to vote after being terminated from probation or discharged from parole (California Constitution Article II, section 4).

Persons convicted of a felony cannot own, possess, or have access to any type of firearm including a rifle or shotgun (California Penal Code § 29800). Only a pardon may relax some of these firearms restrictions.

A California Certificate of Rehabilitation or Pardon does not affect convictions suffered in another jurisdiction. A person convicted in another state or in federal court must apply to the other state or to the federal government for relief.

If a Certificate of Rehabilitation is granted, the court declares the petitioner rehabilitated and recommends that the Governor grant a full pardon (California Penal Code § 4852.13). In reality while many Certificates of Rehabilitation are granted, few pardons are granted.

523.6 CERTIFICATE OF REHABILITATION

While a Certificate of Rehabilitation does not eliminate a felony record for purposes of obtaining a professional or occupational license, the law does provide that a person with a Certificate of Rehabilitation shall not be denied a license solely on the grounds of the felony record (California Business and Professions Code § 480b).

A person required to register as a sex offender who is granted a Certificate of Rehabilitation, may be relieved of any further duty to register under California Penal Code § 290, depending on the original conviction charge. This exemption does not apply to convictions subsequent to the granting of the Certificate of Rehabilitation (California Penal Code § 290.5).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

523.7 PARDONS

A person who has been pardoned cannot state that they have no record of arrests or convictions, but may state that they have been convicted and pardoned. A pardon does not seal or expunge the record of conviction (California Penal Code § 4852.17). Prior convictions may be considered after the granting of a pardon if the person is subsequently convicted of a crime.

A person who received a pardon may serve on a trial jury. (California Code of Civil Procedure § 203(a)(5)).

The granting of a pardon does not prevent some licensing agencies from considering the conviction which has been pardoned when determining whether a license to practice certain professions should be granted or restored (California Government Code § 1029).

If a full and unconditional pardon is granted, the person pardoned may own and possess any type of weapon in California that may be lawfully possessed and owned by other citizens. However, a pardon cannot restore firearms rights to a person who has been convicted of any offense which involved the use of a dangerous weapon (California Penal Code Section 4854). A California pardon does not necessarily permit the possession of weapons under the laws of another state or the federal government.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Bail Bond Background

524.1 PURPOSE AND SCOPE

The Insurance Commission of the State of California provides applications for the licensing of bail permittee, bail agent, and bail solicitor under the provisions of Division 1, Part II, Chapter 7 of the Insurance Code of the State of California.

An applicant must secure the approval of the law enforcement agency principally responsible for the jurisdiction in which the applicant is to operate. This may be a police agency, a sheriff's office, or both, or the District Attorney's Office. To secure this approval, the applicant will submit an application to all of the appropriate agencies.

524.2 PROCEDURE

A background investigation for a bail bond application or bail agent will only be conducted with the approval of the Chief Investigator or his designee as these investigations are most commonly conducted by the police agency with jurisdiction absent a conflict of interest.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Background Investigations

525.1 PURPOSE AND SCOPE

The Bureau of Investigation will conduct background investigations on all potential employees, paid or volunteer, for the Office of the District Attorney.

The scope of these background investigations will depend upon the job classification that the applicant is seeking. Applicants will not begin working until their background is cleared unless authorized by the Chief Assistant District Attorney or his/her designee.

525.2 PROCEDURE

All non-peace officer employee applicants are initially processed by the District Attorney's Office Human Resource personnel. A Human Resource Analyst will obtain all necessary documentation from the applicant to include a Personal History Statement, a Statement of Informed Consent, an Authorization to Release Information, and a copy of a photo ID.Documentation for peace officer applicants is processed by the Bureau of Investigation Training Manager or his/her designee.

The following procedures and steps are taken for all District Attorney's Office employee applicants:

(a) The applicant will be sent to the Sheriff's Office for a Livescan fingerprint submittal to the California Department of Justice and to the FBI

(b) The applicant's name will be checked through the District Attorney's Office Records Management System

(c) The applicant's name will be checked through the CJIC system for any contacts with local law enforcement

(d) The applicant's driving record will be obtained from the Department of Motor Vehicles

(e) The applicant's name will be checked for warrants, restraining orders and civil suits through various resources to include public databases

(f) Credit checks will be completed on all applicants applying for paid positions

(g) Automated criminal history inquiries <u>will not</u> be checked as part of the new employee applicant background investigation. Criminal history information will be identified only through the Livescan fingerprint submittal process

525.3 DEPUTY DISTRICT ATTORNEY, PARALEGAL AND CRIMINALIST APPLICANTS

Background investigations for Deputy District Attorney, Paralegal and Criminalist applicants will include all of the above listed inquiries and checks. In addition, letters of inquiry are sent to local police agencies where the applicant lived and worked in the past 5 years to check for police contacts. References such as past or current supervisors, landlords, or coworkers are also contacted.

The California State Bar website is used to confirm that Deputy District Attorney applicants are licensed to practice law in the State of California.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

The Chief ADA or designee will be notified of all background results for non-peace officer applicants. Any discrepancy, problem, or issue arising from this background investigation that might affect the hiring of the applicant will be reported immediately to the Chief ADA.

525.4 PEACE OFFICER INVESTIGATOR APPLICANTS

A thorough inquiry, as mandated by the California Commission on Peace Officer Standards and Training, must be completed for peace officer investigator applicants. In addition, a polygraph, a medical examination, and a psychological examination will be conducted prior to hiring.

The investigator assigned to conduct the background investigation will ensure that all requirements of the background investigation are completed and that replies are received to all correspondence or other types of inquiries requesting information concerning the applicant.

The Chief Investigator or designee will be notified of all background results for peace officer investigator applicants. Any discrepancy, problem, or issue arising from this background investigation that might affect the hiring of the applicant will be reported immediately to the Chief Investigator.

525.5 BACKGROUND INVESTIGATIONS FILES

All completed background investigations are confidential and will be maintained in a locked and secured manner by the Chief Investigator's Confidential Legal Secretary.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Chapter 6 - Equipment

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Equipment Room and Supplies

600.1 PURPOSE AND SCOPE

The Bureau of Investigation will maintain an equipment room. This equipment room will contain equipment and supplies which will aid investigators and other District Attorney's Office staff in carrying out the functions of the District Attorney's Office. This equipment room contains a variety of equipment that may be checked out, such as audio recorders, cameras, video equipment, portable radios, restraint gear, etc. The equipment room also contains expendable items such as; films, blank recording tapes, and batteries.

600.2 PROCEDURE

A Lieutenant will be assigned to be in charge of the equipment room. Maintenance tasks will include identifying and recording all equipment contained in the equipment room, keeping an adequate inventory of expendable use items such as CD / DVD and batteries, and maintaining a check out / check in list. This check out / check in list will identify who has checked out a piece of equipment and when, and will show when that piece of equipment was returned to the equipment room.

Lieutenants and Team Leaders will be issued keys to the equipment room. Supervisors and Team Leaders will facilitate the check-out/check-in of equipment items as well as providing expendable use items to investigators and other District Attorney staff on an as needed basis.

Investigators who wish to check out items from the equipment room will contact any available Lieutenant or Team Leader to gain access to the equipment room. The Lieutenant or Team Leader will obtain the requested item(s) from the equipment room and provide these to the investigator. The Lieutenant or Team Leader will ensure that the proper notations are made on the check-out/ check-in list identifying what piece of equipment was checked out, by whom, and when.

The investigator who has checked out the particular equipment item will return that item to the equipment room <u>within five working days.</u> Investigators who anticipate an extended need for the equipment item will obtain permission from the lieutenant in charge of the equipment room for such extended check out period.

Investigators are responsible for the proper care and safe keeping of any equipment item that is in their possession. It is also the responsibility of the investigator to notify the Lieutenant in charge of the equipment room of any damage to any equipment or any malfunction of any equipment.

Lieutenants or Team Leaders who receive equipment powered by rechargeable battery packs into the equipment room are responsible for ensuring that the battery packs are set up for recharging.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Property Room Evidence Storage Access

601.1 PURPOSE AND SCOPE

This policy provides for the proper evidence room and storage access. Additionally, this policy provides for the protection of the chain of evidence by identifying those persons authorized to remove and/or destroy property. This policy serves as the precursor policy for 804 - Property and Evidence.

601.2 HEDDING STREET PROPERTY ROOM

Investigator access to the Hedding Street Property Room facility shall be limited to an "as needed" basis only, and at no time shall access be granted without assigned Property Room personnel being present. Prior to entry into the Property Room, investigators shall complete the visitor's log which documents their name, the date, and their time of entry. Upon exiting the room, the investigator shall complete the log with their exit time.

The Chief Investigator will designate specific positions in the Bureau (e.g. Administrative Lieutenant, Property Room Evidence Technician) that will serve as property personnel and those personnel assigned keys to the Property Room and those assigned access to the safes located within the Property Room.

601.2.1 GENERAL ACCESS

Investigators assigned to "General Access" to the Property Room are allowed the following access:

- Receive Property (does not include narcotics, jewelry, money or weapons)
- Check out Property (does not include narcotics, jewelry, money or weapons)
- Level 1 (Entry Only) permission in the Evidence Manager Database

601.2.2 PROPERTY ROOM EVIDENCE TECHNICIAN (PRET)

Personnel assigned as the Property Room Evidence Technician are allowed the following access:

- Receive Property - however the receipt of narcotics, money, jewelry or weapons must be in the presence of either the Administrative Lieutenant, Administrative Team Leader or Property Room Lieutenant
- Level 2 permission in the Evidence Manager Database
- Does not have access to the narcotics or money safe

601.2.3 ADMINISTRATIVE LIEUTENANT (AL), ADMINISTRATIVE TEAM LEADER (ATL) OR PROPERTY ROOM LIEUTENANT (PRL)

The AL, ATL or PRL, are allowed the following access:

- Receive and check-out all property
- Level 5 permission in the Evidence Manager Database

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

- Full access to money, jewelry narcotics or firearms property storage as long as access is conducted in the presence of either the AL, PRL, ATL or case investigator

601.3 BERGER DRIVE PROPERTY ROOM

The Berger Drive Property Room facility houses an entry/receiving area, a property storage area, and several property viewing areas assigned to specific investigative units. Each area has different access requirements and each area is limited to specific personnel. Investigator access to the Berger Drive Property Room facility shall be limited to an "as needed" basis only."

601.3.1 PROPERTY ROOM ENTRY/RECEIVING AREA ACCESS

The PRET, PRL and AL all have access to the entry/receiving area. Unit lieutenants from REACT, E-Group and Insurance and specific investigators assigned to those units, have access rights to the entry/receiving area for purposes of bringing property into the facility and for temporary storage in their assigned viewing area.

601.3.2 PROPERTY ROOM VIEWING AREAS

Investigators and lieutenants from REACT, E-Group and Insurance are assigned to unit-specific viewing areas for the purpose of processing property. Investigators assigned to these units only have access to their assigned area. Assigned investigators do not have access to another unit's assigned viewing area. The PRL and AL may enter a unit's viewing area, but should only do so upon advising the assigned unit lieutenant unless such notification is impractical due to unforeseen circumstances (e.g. emergency maintenance, alarm notifications etc.). The PRET does not have access to assigned property viewing areas.

601.3.3 PROPERTY STORAGE AREA

Access to the property storage area is limited to the PRET, Property Room Lieutenant (PRL) and/ or the Administrative Lieutenant (AL). Investigators needing access to the property storage area shall enter only when being accompanied by one of the three (PRET, PRL or AL). Prior to entry into the property storage area, investigators shall complete the visitor's log which documents their name, the date, and their time of entry. Upon exiting the room, the investigator shall complete the log with their exit time.

Property brought into the Berger Drive Facility may be temporarily stored in an assigned unit's viewing area for processing (excluding weapons, narcotics, money, jewelry, hazardous materials and explosives). Such storage should generally not exceed one week's time prior to final booking into the Property Storage area. Should additional time be required, the unit lieutenant should coordinate with the PRET and PRL.

All property brought into the Berger Drive facility should be appropriately listed on a Property Report form(s). Once the property is properly labeled and packaged for booking, the Property Report form shall be delivered to the PRET, AL, ATL or PRL for processing. Property shall then be moved to the Property Storage Area. **Paper booking of property without physically booking the property (after appropriate packaging and labeling) into the appropriate location is not allowed.**

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Should property that has been booked into the Property Storage area require additional viewing or processing, the PRET shall release the requested property to the assigned investigator after which the property may be maintained and secured in the unit specific viewing room. The PRET shall note the transfer of the property on the Chain of Custody Log and in the Evidence Manager Database. Property transferred from Property Storage to a Viewing Room shall only be done on a temporary basis and should generally not be kept in a Viewing Room for more than 30 days. Should more time be necessary, it is incumbent that the case investigator coordinate extended times with the PRET, PRL, and DL.

Once property is transferred to the custody of an assigned investigator, the investigator shall track the chain of custody of said property should the property be transferred to others for further examination or processing. This tracking shall be done on a Chain of Custody Log form and said form shall be returned to the PRET upon re-booking the property into either the Hedding St. or Berger Drive Property rooms. A copy of the investigator's Chain of Custody Log form shall be retained in the BOI case file.

Firearms, weapons, money, jewelry and narcotics shall be booked into the Hedding St. Property Room and shall not be brought into the Berger Drive Property Room facility.

601.4 REACT

The Hi-Tech Task Force commonly referred to as REACT, is a multi-county task force comprised of officers, deputies, investigators and agents from local Bay Area counties and the federal government. Evidence/Property storage for REACT investigators may be in one of five locations, depending on the type of property seized/received:

- Hedding Street Property Room
- Berger Drive Property Room
- Berger Drive Viewing Room
- REACT Office Property Room
- Investigator's Resident Agency Property Room

601.4.1 HEDDING STREET PROPERTY ROOM

All Firearms, weapons, money, narcotics and jewelry seized or coming into the possession of REACT investigators must be booked into either the Hedding Street Property Room facility, as directed by the procedures described in this policy, or into the investigator's resident agency property room. These items of evidence or property shall not be stored or booked into the Berger Drive Property Room facility or at the REACT Property Room. REACT investigators should coordinate with the PRET, AL, PRL or ATL should other types of property need to be booked into the Hedding Street Property Room facility.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

601.4.2 BERGER DRIVE PROPERTY/VIEWING ROOMS – TEMPORARY AND LONG-TERM STORAGE

REACT investigators may temporarily store evidence/property (except for firearms, weapons, money, narcotics and jewelry) in their assigned viewing room at the Berger Drive Property Room facility and shall comply with the required booking procedures as described in this policy. Such evidence/property should be transferred to the REACT property storage area (contained within the Berger Drive facility) as soon as practical. Should said evidence/property need to be transferred to the general Berger Drive property storage area, all commensurate property booking procedures shall be followed after obtaining a BOI case number.

601.4.3 REACT OFFICE PROPERTY ROOM – TEMPORARY STORAGE

Property (except firearms, weapons, money, narcotics and jewelry) may be stored on a temporary basis at the Property Room located in the REACT offices. Said property shall be transferred to the Berger Drive Property Room Facility (REACT temporary viewing room or REACT property storage room) or to the investigator's resident agency property room facility as soon as practical. Such booking shall be in accordance to the procedures described in this policy. Money, weapons or narcotics may be temporarily stored in the REACT safe, which is under strict access control, prior to booking at the Hedding Street Property Room, or at the investigator's resident agency property room. All procedures contained in this policy regarding the counting and packaging of money and the packaging and weighing of narcotics shall be followed.

601.4.4 INVESTIGATOR'S RESIDENT AGENCY PROPERTY ROOM

Any property may be booked into the REACT investigator's resident agency in compliance with that agency's policies and procedures. Said booking will be tracked in the REACT Evidence Manager database and a copy of the Property Report form shall be retained in the investigative case file and in the REACT Office Manager's file.

601.4.5 BOOKING PROCEDURES

REACT investigators shall complete a Property Report form as described in this policy and shall deliver said form to the REACT Office Manager. The Office Manager shall maintain a copy of the form and return a copy to the investigator for retention in the investigative case file. The Office Manager shall enter the appropriate information into the Evidence Manager database (a stand-alone system not connected to the Hedding Street database) and shall print out property labels to be affixed to the property and/or property containers (e.g. envelopes, boxes, etc.). The investigator shall coordinate with the Office Manager for any change in location or custody of property and shall insure that all present and future chain of custody changes are tracked in the database.

601.4.6 ACCESS

Access to the REACT Office Property Room or Berger Drive Property/Viewing Room facility shall be limited to those investigators and supervisors pre-designated by the REACT lieutenant. The REACT lieutenant is responsible for ensuring that REACT personnel having access to either facility shall follow the property procedures as described in this policy.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Property and Evidence

602.1 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.

602.2 DEFINITIONS

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

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

Safekeeping - Includes the following types of property:

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

Found property - Includes property found by an employee or citizen that has no apparent evidentiary value and where the owner cannot be readily identified or contacted.

Property Room Personnel – Any employee assigned by the Chief Investigator with access to the Property Room facilities and with responsibilities to include, but not limited to:

- Receiving property for booking as evidence, safekeeping, found property or transfer from Superior Court
- Entering data into the Evidence Manager Database
- Tracking custody of property
- Classifying property
- Arranging forensic analysis of property
- Disposal of property
- Returning property to its owner
- Assisting investigators in the logging of evidence seized during search warrants

602.3 GENERAL PROPERTY ROOM BOOKING PROCEDURES

All property must be booked prior to the employee going off-duty unless otherwise approved by a lieutenant. Employees responsible for booking and the disposition of property shall observe the following general guidelines:

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Property to be booked into an evidence facility (either Hedding Street or Berger Drive), will be listed on a Property Report form. The Property Report form shall include the following:

- Defendant's or victim's name
- Bureau or Superior Court case number
- Nature of crime (code violation)
- Location where property was seized or received
- Whether property was seized pursuant to a search warrant (a copy of the SW must be attached to the Property Report form)
- Property description
- Date and time property was submitted
- Name of the submitting investigator and the name of the person receiving the property

The original copy (white copy) of the Property Report form will be retained in the Hedding Street Property Room and the yellow copy will be retained in the Bureau case file.

602.3.1 DISPOSITION OF PROPERTY

When final disposition of property is in order, it will be the responsibility of the case investigator to consult with the case attorney and Property Room Evidence Technician (PRET) to ensure that the property is properly processed for disposal.

602.3.2 PROPERTY TRANSFERRED TO THE BUREAU

Exhibits transferred to the Bureau from Superior Court will be booked under the appropriate Superior Court Docket Number. Should property be transferred to the Bureau from other sources (e.g. an attorney receives evidence from a law enforcement officer in a court proceeding but has not submitted the evidence as a court exhibit) and has not been previously booked under a Bureau case number, a new Bureau case number shall be generated and the property booked under that number.

602.4 PROPERTY HANDLING AND SPECIFIC PROPERTY ROOM BOOKING PROCEDURES

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

Where ownership can be immediately established as to found property with no apparent evidentiary value, such property may be released to the owner without the need for booking. A BOI Case Number shall be generated and a Property Report form completed to document the release of property not booked. The owner of the property shall sign the Property Report form acknowledging receipt of the items. A copy of the form shall be given to the owner of the

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

property. The original form shall be delivered to the Property Room Evidence Technician (PRET) and a copy shall be retained in the BOI case file along with a Found Property report.

Found property which is not released to an identified owner in the field, shall be booked into the Hedding Street Property Room. The original Property Report form shall be delivered to the PRET and a copy of the form shall be retained in the BOI case file along with a Found Property report.

602.4.1 CASH

- Cash shall be listed on a separate Property Report form and shall only be booked into the Hedding Street Property Room facility;
- Cash shall be secured in the Property Room safe by the Administrative Lieutenant (AL), Administrative Team Leader (ATL) or Property Room Lieutenant (PRL);
- Cash shall be double-counted, by a minimum of two investigators in the presence of a Team Leader or Lieutenant;
- One count shall be done by hand and one count shall be done by a cash-counting machine;
- Count by the cash-counting machine shall be completed in the presence of one of the following personnel: the PRET, AL, ATL or PRL;
- Cash and the original count denomination tally sheet shall be sealed in a clear plastic evidence envelope/bag after a copy has been made of the original count denomination sheet;
- The cash evidence envelope/bag shall be signed and dated by the investigator across the seal(s);
- Cash shall be personally delivered to the PRET, AL, ATL or PRL.

602.4.2 JEWELRY

- Jewelry shall be listed on a separate Property Report form and shall only be booked into the Hedding Street Property Room facility;
- All Jewelry items shall be described completely but in general terms (i.e. clear stone, yellow metal vs. diamond stone, gold metal);
- Jewelry shall be packaged in a clear envelope and heat sealed;
- The clear envelope shall be signed and dated by the investigator across the seal;
- Jewelry shall be personally delivered to the PRET, AL, ATL or PRL;
- Jewelry shall be secured in the Property Room safe by the AL, ATL or PRL;
- Jewelry items with serial numbers shall be entered in APS by Sheriff's Office Record's personnel. The PRET shall coordinate with the Sheriff's Office to ensure entries are made.

602.4.3 NARCOTICS AND DANGEROUS DRUGS

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

- Narcotics shall be listed on a separate Property Report form and described completely in general terms (i.e. white powder vs. cocaine). Narcotics shall only be booked into the Hedding Street Property Room facility;
- Narcotics shall be listed on a Crime Lab Controlled Substance Evidence Label (CLCSEL);
- The CLCSEL shall be affixed to the exterior of the Narcotics Package and the narcotics shall be heat sealed inside the clear package;
- The Narcotics Package shall be signed and dated by the investigator across the seal;
- The sealed Narcotics Package shall be personally delivered to the PRET, AL, ATL or PRL and shall be weighed in the investigator's presence. The Investigator shall then date and write the weight of the package on the CLCSEL. The narcotics shall then be secured in the Property Room by the AL or PRL;
- Paraphernalia as defined by Health and Safety Code § 11364 shall also be booked separately and listed on a separate Property Report form;
- Sharp items and glass paraphernalia shall be secured in appropriate safety packaging.

602.4.4 WEAPONS

- Weapons shall be listed on a separate Property Report form. Firearms shall be described by make, model, caliber and serial number (if applicable). Weapons shall only be booked into the Hedding Street Property Room facility;
- Weapons with sharp edges or pointed ends shall be secured in an appropriate package (e.g. cardboard box, cardboard tube) to ensure the safety of property personnel handling the package. Weapons such as O.C. spray or mace shall be secured in a sealed plastic envelope;
- All firearms must be properly and safely unloaded (See PPM 405.5 – "Safe Handling of Firearms) prior to booking into the Property Room. No ammunition shall be co-mingled with a firearm;
- A plastic wire-tie shall be placed through the breach or cylinder of the firearm and secured in a cardboard firearm box with additional plastic wire-ties;
- The firearm box shall be sealed with evidence tape;
- The firearm box shall be signed and dated by the investigator across the evidence tape;
- The firearm shall be personally delivered to the PRET (or the ATL, PRL or AL) and secured in a Firearms Storage Locker;
- All booked firearms shall be entered into AFS by Sheriff's Office Record's personnel. The PRET shall coordinate with the Sheriff's Office to ensure entries are made.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

602.4.5 AUDIO AND VIDEO RECORDINGS

- Any audio or video recording property shall be listed on a separate Property Report form and shall only be booked into the Hedding Street Property Room facility;
- CD's (Compact Discs) and DVD's (Digital Video Discs) shall be packaged within a CD/DVD paper sleeve and sealed with an appropriate evidence label;
- Audio and Video Cassettes shall be booked in their original casing and labeled with an appropriate evidence label;
- Micro Cassettes or other digital media (e.g. sim cards, flash drives) shall be booked in an appropriate sized package (e.g. standard size cassette case, envelope, etc.) and labeled with an appropriate evidence label;
- Audio & Video Recordings may be hand-delivered to the PRET or locked in an external Evidence Storage Locker.

602.4.6 BOXED EVIDENCE

- Boxed evidence shall not contain any of the above listed items;
- Items booked inside of boxes do not need to be individually sealed with evidence tape;
- Items booked inside of boxes that require separation from other items in the same box shall be placed inside individual envelopes with an appropriate evidence label affixed to the exterior of the envelope;
- Boxes shall be sealed with evidence tape at both ends of the box;
- The box shall be signed and dated by the investigator across the portion of evidence tape running across the top of the box;
- The top and end of the box shall be labeled with the Bureau case number, item numbers (e.g. 2A2, 3A2) contained in the box and the number of boxes booked (e.g. Box 1 of 2);
- Boxed evidence may be personally delivered to the PRET or locked in an external Evidence Storage Locker.

602.4.7 VEHICLES

- Prior to the seizure of a vehicle, the PRET and PRL or designee and the investigator's supervisor shall be consulted to coordinate the storage of a vehicle unless circumstances make such coordination impractical and would impede the investigation;
- A CHP Form 180 shall be completed by an investigator and a copy delivered to the Sheriff's Department Records Division for entry into SVS. Such entry shall be made prior to the end of the investigator's shift;
- The CHP Form 180 and a copy of any supporting documentation (e.g. 186.11 PC Order, Search Warrant) shall be delivered to the PRET along with a copy of the SVS entry;
- A Property Report form shall also be completed and delivered to the PRET.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

602.4.8 EXPLOSIVES

- Investigators who encounter a suspected explosive device shall promptly notify their immediate supervisor after securing the location and getting to a place of safety;
- Appropriate evacuations should be made if necessary;
- Explosives shall not be handled by investigators;
- The appropriate local law enforcement agency and bomb squad shall be contacted for containment, handling, storage and disposal;
- Investigators shall coordinate with the assigned bomb squad members for documentation, transportation (if applicable) storage and /or disposal of explosives;
- A copy of any reports generated by the assigned law enforcement agency and/or bomb squad shall be retained in the BOI case folder.

602.4.9 EXCEPTIONAL HANDLING

- Investigators who encounter a suspected hazardous material (not including specific bio-hazard materials such a SART kits and Buccal swaps) shall promptly notify their immediate supervisor;
- Investigators shall not handle hazardous materials if at all possible and should never handle such materials without wearing the appropriate protective clothing and breathing apparatus;
- Investigators shall contact and coordinate with local fire department Hazmat Teams or other hazardous material or environmental experts prior to the handling, removal or storage of such materials;
- Storage of Hazardous materials or samples shall be at an off-site location as recommended by local fire department Hazmat Teams or hazardous material experts having access to such facilities;
- A copy of any reports generated by the assigned law enforcement agency, Hazmat Team or other experts shall be retained in the BOI case folder.

602.4.10 BIO-HAZARDS

All Bio-hazards property such as SART kits or Buccal Swabs shall be properly sealed in an appropriate bio-hazard container or envelope as directed by the PRET and then booked into the Hedding Street Property Room facility. In the absence of the PRET, SART kits or Buccal Swab evidence can be secured in an external Property Room locker after being properly packaged.

602.4.11 RELINQUISHED FIREARMS

Individuals who relinquish firearms pursuant to the provisions of Penal Code § 29850 shall be issued a receipt that describes the firearm, the serial number or other identification of the firearm at the time of relinquishment (Penal Code § 29810).

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Relinquished firearms shall be retained for 30 days, after which time they may be destroyed, retained, sold or otherwise transferred, unless (Penal Code § 29810):

(a) A certificate is issued by a judge of a court of record or the District Attorney stating the firearms shall be retained; or

(b) The convicted person provides written notice of an intent to appeal the conviction that necessitated the relinquishment; or

(c) The Automated Firearms System indicates that the firearm was reported lost or stolen.

1. In such event, the firearm shall be restored to the lawful owner as soon as it is no longer needed as evidence, the lawful owner has identified the weapon and provided proof of ownership, and the Bureau has complied with the requirements of Penal Code § 33850 et seq.

The PRET shall ensure the AL is notified of the relinquished firearm for purposes of updating the Automated Firearms System and the disposition of the firearm for purposes of notifying the California Department of Justice (DOJ) (See the Records Section Policy).

602.5 PACKAGING OF PROPERTY

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

(a) Narcotics and dangerous drugs

(b) Firearms (unloaded and booked separately from ammunition)

(c) Property with more than one known owner

(d) Paraphernalia as described in Health and Safety Code § 11364

(e) Contraband

602.5.1 PACKAGING CONTAINER

Employees shall package all property, except narcotics and dangerous drugs in a suitable container available for its size. Knife boxes should be used to package knives, and syringe tubes should be used to package syringes and needles.

A property tag shall be securely attached to the outside of all items or group of items packaged together.

602.5.2 PACKAGING NARCOTICS

The investigator seizing narcotics and dangerous drugs shall retain such property in his/her possession until it is properly weighed, packaged, tagged, and placed in the designated narcotics locker. Due to hazardous exposure to certain chemical agents in narcotics, narcotics seized in the field should be packaged and heat sealed as soon as possible.

The booking investigator shall initial the sealed envelope with his/her initials covering portions of the packaging tape. Narcotics and dangerous drugs shall not be packaged with other property.

A completed property tag shall be attached to the outside of the container. The chain of evidence shall be recorded on the back of this tag.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

602.6 RECORDING OF PROPERTY

Property Room personnel receiving custody of property shall record his/her signature, the date and time the property was received and where the property will be stored on the Property Report form. Appropriate entries shall also be made into the Evidence Manager Database.

A BOI case number shall be obtained for each item or group of items. This number shall be recorded on the Property Report form(s), as well as on evidence labels, containers or boxes.

Any changes in the location or custody of property held by the Bureau shall be noted in the Property Chain of Custody Log and the Evidence Manager Database.

602.7 PROPERTY CONTROL

Each time Property Room personnel release property to another person, he/she shall enter this information in the Chain of Custody Log assigned to that case and into the Evidence Manager Database. Investigators desiring property for court should contact the Property Room Evidence Technician or designee at least one day prior to the court day.

Request for the analysis of items other than narcotics or drugs shall be made to the Property Room Evidence Technician in writing (e.g. email). This request may be made any time after booking of the property or evidence. The PRET shall then make the appropriate entry into LIMS.

602.7.1 RESPONSIBILITY OF OTHER PERSONNEL

Every time property is released or received, an appropriate entry on the evidence package shall be completed to maintain the chain of evidence. No property or evidence is to be released without first receiving written authorization from a lieutenant or investigator assigned to the case..

Request for analysis for items other than narcotics or drugs shall be completed on the appropriate forms and submitted to the PRET. This request may be filled out any time after booking of the property or evidence.

602.7.2 TRANSFER OF EVIDENCE TO CRIME LABORATORY

The PRET will check the evidence out of property, indicating the date and time on the Chain of Custody Log and make the appropriate entry into LIMS and the Evidence Manager Database.

The PRET shall transport the property to the lab and present the property to the appropriate laboratory property receptionist. The receptionist will then scan the PRET's identifying bar code and create a receipt for the property received. The receipt will then be retained in the Property Room Evidence File under the appropriate case number.

When the PRET receives property from the Laboratory, he/she will again have their identification bar code scanned and a receipt will be generated by Lab personnel indicating the property being released to the PRET. The PRET will transport the property to the Hedding Street Property Room and book the property in accordance with the policies outlined in this PPM. The PRET will then make the appropriate entries into the Chain of Custody Log and the Evidence Manager Database. Should the property include narcotics, the narcotics envelope will be weighed and

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

said weight, date and PRET signature noted on the CLCSEL label affixed to the exterior of the envelope. Said weight shall also be noted in the Evidence Manager Database.

602.7.3 STATUS OF PROPERTY
Each person receiving property will make the appropriate entry to document the chain of evidence. Temporary release of property to investigators for investigative purposes, or for court, shall be noted on the property control card, stating the date, time and to whom released.

The Property Room Evidence Technician shall obtain the signature of the person to whom property is released, and the reason for release. Any employee receiving property shall be responsible for such property until it is properly returned to property or properly released to another authorized person or entity.

The return of the property should be recorded on the property control card, indicating date, time, and the person who returned the property.

602.7.4 CONTROL OF NARCOTICS AND DANGEROUS DRUGS
The Property Room Lieutenant will be responsible for the storage, control and destruction of all narcotics and dangerous drugs coming into the custody of this department, including paraphernalia as described in Health & Safety Code § 11364.

602.8 AUTHORITY TO RELEASE PROPERTY
The Property Room Lieutenant shall authorize the disposition or release of all evidence and property coming into the care and custody of the Bureau and shall coordinate such disposition or release with the Property Room Evidence Technician. If required, the PRL will coordinate such release with the assigned Deputy District Attorney.

602.8.1 RELEASE OF PROPERTY
All reasonable attempts shall be made to identify the rightful owner of found property or evidence not needed for an investigation. Release of property shall be noted on the Property Report form, listing the name and address of the person to whom the property is to be released, as well as documented in the Evidence Manager Database and Chain of Custody Log. The release authorization shall be signed by the authorizing lieutenant or investigator and must conform to the items listed on the Property Report form or must specify the specific item(s) to be released. If required, the Deputy District Attorney authorizing the release of property shall also sign the Property Report form.

With the exception of firearms and other property specifically regulated by statute, found property and property held for safekeeping shall be held for a minimum of 90 days. During such period, the Property Room Evidence Technician shall attempt to contact the rightful owner by telephone and/or mail when sufficient identifying information is available. Property not held for any other purpose and not claimed within 90 days after notification (or receipt, if notification is not feasible) shall be disposed of in accordance with County policy and applicable statutes. If such property is not sold at auction or otherwise lawfully claimed, it may thereafter be destroyed (Civil Code § 2080.6). The final disposition of all such property shall be fully documented in related reports.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

The Property Room Evidence Technician shall release property upon proper identification being presented by the owner (or lawful recipient in the owner's absence) for which an authorized release has been received. A signature of the person receiving the property shall be recorded on the original Property Report form. After release of all property entered on the Property Report form, the form shall be maintained in the Property Evidence File. The release of property shall also be documented in the Chain of Custody Log and the Evidence Manager Database.

The Bureau is not required to retain any firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

602.8.2 DISPUTED CLAIMS TO PROPERTY

Occasionally, more than one party may claim an interest in property being held by the Bureau, and the legal rights of the parties cannot be clearly established. Such property shall not be released until one party has obtained a valid court order or other undisputed right to the involved property.

After coordinating a response with County Counsel all parties should be advised that their claims are civil and in extreme situations, County Counsel for the Bureau may wish to file an interpleader to resolve the disputed claim (Code of Civil Procedure § 386(b)).

602.8.3 RELEASE OF FIREARM IN DOMESTIC VIOLENCE MATTERS

Within five days of the expiration of a restraining order issued in a domestic violence matter that required the relinquishment of a firearm, the Property Room Lieutenant shall return the weapon to the owner if the requirements of Penal Code § 33850 and Penal Code § 33855 are met unless the firearm is determined to be stolen, evidence in a criminal investigation or the individual is otherwise prohibited from possessing a firearm (Family Code § 6389(g); Penal Code § 33855).

The Property Room lieutenant shall also make reasonable efforts to determine whether the person is the subject of any court order preventing the person from possessing a firearm and if so, the firearm should not be released to the person while the order is in effect.

602.8.4 RELEASE OF FIREARMS AND WEAPONS IN MENTAL ILLNESS MATTERS

Firearms and other deadly weapons confiscated from an individual detained for an evaluation by a mental health professional or subject to the provisions of Welfare and Institutions Code § 8100 or Welfare and Institutions Code § 8103 shall be released or disposed of as follows:

(a) If a petition for a hearing regarding the return of the weapon has been initiated pursuant to Welfare and Institutions Code § 8102(c), the weapon shall be released or disposed of as provided by an order of the court. If the court orders a firearm returned, the firearm shall not be returned unless and until the person presents valid identification and written notification from the California Department of Justice (DOJ) which conforms to the provisions of Penal Code § 33865.

(b) If no petition has been initiated pursuant to Welfare and Institutions Code § 8102(c) and the weapon is not retained as evidence, the Bureau shall make the weapon available for return. Under no circumstances shall any firearm be returned to any individual

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865 a - e.

(c) Unless the person contacts the Bureau to facilitate the sale or transfer of the firearm to a licensed dealer pursuant to Penal Code § 33870, firearms not returned should be sold, transferred, destroyed or retained as provided in Welfare and Institutions Code § 8102.

The Bureau is not required to retain any firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

602.8.5 RELEASE OF FIREARMS IN GUN VIOLENCE RESTRAINING ORDER MATTERS
Firearms and ammunition that were taken into temporary custody or surrendered pursuant to a gun violence restraining order shall be returned to the restrained person upon the expiration of the order and in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

If the restrained person who owns the firearms or ammunition does not wish to have the firearm or ammunition returned, he/she is entitled to sell or transfer title to a licensed dealer, provided that the firearms or ammunition are legal to own or possess and the restrained person has right to title of the firearms or ammunition (Penal Code § 18120).

If a person other than the restrained person claims title to the firearms or ammunition surrendered pursuant to Penal Code § 18120 and the Santa Clara County District Attorney's Office, Bureau of Investigation determines him/her to be the lawful owner, the firearms or ammunition shall be returned in accordance with the requirements of Penal Code § 33850 et seq. (Penal Code § 18120).

Under no circumstances shall any firearm be returned to any individual unless and until such person presents valid identification and written notification from the California Department of Justice that conforms to the provisions of Penal Code § 33865 a - e.

Firearms and ammunition that are not claimed are subject to the requirements of Penal Code § 34000.

602.9 DISPOSITION OF PROPERTY

All property not held for evidence in a pending or filed criminal/civil investigation or proceeding, and held for six months or longer where the owner has not been located or fails to claim the property, may be disposed of in compliance with existing laws upon receipt of proper authorization for disposal. The Property Room Lieutenant shall request a disposition or status on all property which has been held in excess of 120 days, and for which no disposition has been received from a lieutenant or investigator.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

The Bureau is not required to retain any firearm or other deadly weapon longer than 180 days after notice has been provided to the owner that such firearm or other deadly weapon is available for return. At the expiration of such period, the firearm or other deadly weapon may be processed for disposal in accordance with applicable law (Penal Code § 33875).

Property held for evidence in a pending or filed criminal/civil case shall not be released or disposed of unless said release complies with the Santa Clara County Regional Association for Property and Evidence (SCRAPE) protocols, applicable statutes, purge timelines established by this Office and the release is approved by the Property Room Lieutenant.

602.9.1 EXCEPTIONAL DISPOSITIONS

The following types of property shall be destroyed or disposed of in the manner, and at the time prescribed by law, unless a different disposition is ordered by a court of competent jurisdiction:

- Weapons declared by law to be nuisances (Penal Code § 29300; Penal Code § 18010; Penal Code § 32750)
- Animals, birds, and related equipment that have been ordered forfeited by the court (Penal Code § 599a)
- Counterfeiting equipment (Penal Code § 480)
- Gaming devices (Penal Code § 335a)
- Obscene matter ordered to be destroyed by the court (Penal Code § 312)
- Altered vehicles or component parts (Vehicle Code § 10751)
- Narcotics (Health and Safety Code § 11474 et seq.)
- Unclaimed, stolen or embezzled property (Penal Code § 1411)
- Destructive devices (Penal Code § 19000)
- Sexual assault evidence (Penal Code § 680(e))

602.9.2 UNCLAIMED MONEY

If found or seized money is no longer required as evidence and remains unclaimed after three years, the Bureau shall cause a notice to be published each week for a period of two consecutive weeks in a local newspaper of general circulation (Government Code § 50050). Such notice shall state the amount of money, the fund in which it is held and that the money will become the property of the agency on a designated date not less than 45 days and not more than 60 days after the first publication (Government Code § 50051).

Any individual item with a value of less than $15.00, or any amount if the depositor/owner's name is unknown, which remains unclaimed for a year or by order of the court, may be transferred to the general fund without the necessity of public notice (Government Code § 50055).

If the money remains unclaimed as of the date designated in the published notice, the money will become the property of this bureau to fund official law enforcement operations. Money

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

representing restitution collected on behalf of victims shall either be deposited into the Restitution Fund or used for purposes of victim services.

602.9.3 RETENTION OF BIOLOGICAL EVIDENCE
The Property Room Supervisor shall ensure that no biological evidence held by the Bureau is destroyed without adequate notification to the following persons, when applicable:

(a) The defendant

(b) The defendant's attorney

(c) The appropriate prosecutor and Attorney General

(d) Any sexual assault victim

(e) The Criminal Investigations Bureau supervisor

Biological evidence shall be retained for either a minimum period that has been established by law (Penal Code § 1417.9) or that has been established by the Property Room Supervisor, or until the expiration of any imposed sentence that is related to the evidence, whichever time period is greater. Following the retention period, notifications should be made by certified mail and should inform the recipient that the evidence will be destroyed after a date specified in the notice unless a motion seeking an order to retain the sample is filed and served on the Bureau within 180 days of the date of the notification. A record of all certified mail receipts shall be retained in the appropriate file. Any objection to, or motion regarding, the destruction of the biological evidence should be retained in the appropriate file and a copy forwarded to the Criminal Investigations Bureau supervisor.

Biological evidence related to a homicide shall be retained indefinitely and may only be destroyed with the written approval of the Chief Investigator and the District Attorney or designee.

Biological evidence or other crime scene evidence from an unsolved sexual assault should not be disposed of prior to expiration of the statute of limitations and shall be retained as required in Penal Code § 680. Even after expiration of an applicable statute of limitations, the Criminal Investigations Bureau supervisor along with the Person Crimes lieutenant and the supervising attorney in the Sexual Assault Unit should be consulted prior to any disposal. The sexual assault victim shall be notified at least 60 days prior to the disposal (Penal Code § 680). Reasons for not analyzing biological evidence shall be documented in writing (Penal Code § 680.3).

602.10 INSPECTIONS OF THE EVIDENCE ROOM

(a) On a monthly basis, the supervisor of the evidence custodian shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

(b) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the Chief Investigator.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

(c) An annual audit of evidence held by the Bureau shall be conducted by a Lieutenant (as appointed by the Chief Investigator) not routinely or directly connected with evidence control.

(d) Whenever a change is made in personnel who have access to the evidence room, an inventory of all evidence/property shall be made by an individual not associated to the property room or function to ensure that records are correct and all evidence property is accounted for.

(e) On a monthly basis, the Property Room Lieutenant shall make an inspection of the evidence storage facilities and practices to ensure adherence to appropriate policies and procedures.

(f) Unannounced inspections of evidence storage areas shall be conducted annually as directed by the [agnecyHead] Chief Investigator.

(g) A semi-annual inventory of money, jewelry, narcotics and firearms shall be conducted by the Captain or a designee not routinely or directly connected with evidence control.

(h) An annual audit of evidence held by the Bureau shall be conducted by the Captain or a designee not routinely or directly connected with evidence control.

(i) Whenever a change in personnel is made who have access to the Hedding Street Property Room, an inventory of all money, jewelry, narcotics and firearms shall be conducted by the Captain or a designee not associated to the Property Room function. Additionally, an audit of all other evidence/property stored in the Hedding Street Property Room (including the annex) shall be made by the Captain or a designee not associated to the Property Room function.

(j) Whenever a change in personnel is made who have access to the Berger Drive Property Storage Area, an audit of all evidence/property stored in the facility shall be made by the Captain or a designee not associated to the Property Room function.

(k) Whenever a change in personnel is made who have access to the Berger Drive entry/ receiving area and/or the property viewing areas, the Administrative Lieutenant shall ensure that any future access by the reassigned personnel is eliminated via the Lenel card reader system and the bio-metric reader system.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Body Armor

603.1 PURPOSE AND SCOPE

The purpose of this policy is to provide investigators with guidelines for the proper use of body armor.

603.2 POLICY

It is the policy of the Santa Clara County District Attorney's Office, Bureau of Investigation to maximize officer safety through the use of body armor in combination with prescribed safety procedures. While body armor provides a significant level of protection, it is not a substitute for the observance of officer safety procedures.

603.3 ISSUANCE OF BODY ARMOR

The Training Manager shall ensure that body armor is issued to all investigators when the investigator begins service at the Santa Clara County District Attorney's Office, Bureau of Investigation and that, when issued, the body armor meets or exceeds the standards of the National Institute of Justice.

The Training Manager 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.

603.3.1 USE OF SOFT BODY ARMOR

The Bureau encourages all on duty investigators to wear soft body armor whenever practical. Their use in some instances is mandatory:

(a) When investigators are assigned to a stakeout (see below), service of felony arrest warrant(s), or, are serving a search warrant.

(b) A stakeout, for purposes of this section, is a preplanned event where time and practicality allow investigators to put on body armor in anticipation of encountering armed or dangerous suspects or circumstances.

(c) During all training activities at the Firearms Range.

Body armor worn by an investigator must be either Bureau issued or Bureau approved and shall comply with protective and related requirements prescribed under current standards of the National Institute of Justice.

603.3.2 EXCEPTIONS

The wearing of soft body armor is exempt as follows:

(a) An investigator may be excused from wearing body armor when he/she is involved in undercover or plainclothes work that his/her supervisor determines could be compromised by wearing body armor; or

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

(b) When a supervisor determines that other circumstances make it inappropriate

603.3.3 INSPECTIONS OF BODY ARMOR

Supervisors should ensure that body armor is worn and maintained in accordance with this policy through routine observation and periodic documented inspections. Annual inspections of body armor should be conducted by an authorized designee for fit, cleanliness, and signs of damage, abuse and wear.

Body armor that is worn or damaged shall be replaced by the Bureau. Body armor that must be replaced due to misuse or abuse by an investigator may result in administrative action.

603.3.4 CARE AND MAINTENANCE OF SOFT BODY ARMOR

Soft body armor should never be stored for any period of time in an area where environmental conditions (e.g., temperature, light, humidity) are not reasonably controlled (e.g., normal ambient room temperature/humidity conditions), such as in automobiles or automobile trunks. Soft body armor should be cared for and cleaned pursuant to the manufacturer's care instructions provided with the soft body armor. The instructions can be found on labels located on the external surface of each ballistic panel. The carrier should also have a label that contains care instructions.

Failure to follow these instructions may damage the ballistic performance capabilities of the armor. If care instructions for the soft body armor cannot be located, contact the manufacturer to request care instructions.

Soft body armor should not be exposed to any cleaning agents or methods not specifically

recommended by the manufacturer, as noted on the armor panel label.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Disposition of Bureau Firearms

604.1 PURPOSE AND SCOPE

Firearms assigned to the District Attorney's Office Bureau of Investigation ("Bureau") which have no operational value, will be properly disposed of in accordance with law and Santa Clara County policy. Firearms that are determined to be obsolete, yet still hold monetary value, may be transferred to a federally licensed firearms dealer in exchange for credit to be used by the Bureau for the purchase of replacement firearms and/or firearms related equipment. Such exchange will be in accordance with County procurement policies. If warranted, firearms may be transferred to the County Crime Lab for forensic use.

604.2 PROCEDURE

When Bureau assigned firearms become worn or damaged beyond repair and retain no monetary value, the Chief Investigator may authorize those weapons to be destroyed. These weapons will be transported to an approved place of destruction in coordination with the Sheriff's Office during a regularly scheduled firearms disposal operation. The Bureau Property Room Evidence Technician and two sworn investigators shall transport the firearms to be destroyed. These firearms will be destroyed in the presence of, and witnessed by, the investigator(s) and the Property Room Evidence Technician.

A list of the firearms destroyed will be created. The destruction of firearms will be reported to relevant state and federal agencies in accordance with existing law and County policy, to include Automated Firearms Information System (AFIS) and National Firearms Act (NFA) reporting.

Bureau assigned firearms that are determined to be obsolete, yet retain some monetary value, may be transferred to a federally licensed firearms dealer in exchange for credit to be used by the Bureau for the purchase of replacement firearms and/or firearms related equipment. All transfers of Bureau assigned firearms to federally licensed firearms vendors will be coordinated through the Office of the District Attorney's Fiscal Unit. All purchases of firearms and firearms related equipment will be coordinated through the existing procurement process. The transfer of firearms will be reported to relevant state and federal agencies in accordance with existing law and County policy, to include AFIS and NFA reporting.

The disposition of any County-owned property, through destruction or transfer, will be coordinatedand recorded in accordance with existing County policy.

Alternatively, and as warranted, firearms may be transferred to the County Crime Lab for forensic use. All transfers will be coordinated through the Office of the District Attorney's Fiscal Unit and records of such transfers will be maintained by Bureau armory personnel. Any such transfers shall be entered into the AFIS system via the Sheriff's Office, and reported in accordance with the NFA if required.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Disposition of Bureau Firearms

This policy and procedure shall not apply to firearms held as evidence by the Bureau of Investigation. This policy applies only to firearms owned by the County and assigned to the Bureau. Firearms held as evidence will be disposed of in accordance with the existing law, County policy, and pursuant to orders of the court of jurisdiction. All evidentiary firearms will be addressed in accordance with PPM Section 610 – Evidence and Storage.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Safety Equipment and Property

605.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance to investigators as to the expectation of proper handling of County-owned safety equipment and property.

605.2 POLICY

In addition to the direction on firearms storage as found in Policy and Procedure 405, County-owned safety equipment and property (e.g. tactical or bullet proof vests, radios, badges, identification card, handcuffs, magazines, kinetic impact weapons, case files etc.), except for first aid supplies, will not be stored in any unattended personal vehicle unless that vehicle is secured in a locked home garage. Additionally, County-owned safety equipment and property, except for first-aid supplies, will not be stored in unattended County-owned vehicles during duty-hours unless secured in a locked trunk. At the end of shift, County-owned vehicles shall be stored in the County Garage.

Investigators assigned County-owned vehicles without trunks (e.g. SUV's, Pickup Trucks) shall secure their safety equipment and property at the end of shift unless parked within a secured parking facility such as a police department. The County garage is not considered a secured facility in regard to these vehicles.

Investigators assigned to task forces shall secure their County-owned equipment from their vehicle at the end of shift unless the vehicle is parked within a secured parking facility such as a police department. Should maintenance be required on a County-owned vehicle, all safety equipment and/or County equipment shall be secured from the vehicle prior to releasing the vehicle to Facilities and Fleet.

Investigators with take-home vehicle privileges will secure their County-owned safety equipment and property from their vehicles upon arrival at home unless the vehicle is secured inside a home garage or the equipment is secured in the vehicle's trunk in a locked storage device that is cable locked or bolted to the interior of the trunk.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Security Cameras

606.1 PURPOSE AND SCOPE

The Bureau of Investigation and the Sheriff's Department operate a shared public safety security camera system at the County Government Center ("Center") for the purpose of investigating crimes and to create a safer environment for all those who work and visit the Center in a way that also protects their privacy.

This policy explains the purpose of the cameras and provides guidelines to the members of the Bureau of Investigation as to their operation and access, the storage and retention of captured images, and the copying and dissemination of stored data.

606.2 POLICY

The use of the County Government Center security camera system is shared by the District Attorney's Office Bureau of Investigation and the Sheriff's Department, working in consultation with the County Executive's Office, individual departments, and the Facilities and Fleet Department (FAF). Both the Bureau and the Sheriff's Department are charged with ensuring that the security camera system is used in an effective, professional and lawful manner consistent with the policies contained in this document and in the County Government Center Security Camera Guidelines as approved by the Board of Supervisors.

The Bureau of Investigation has primary use responsibility of those cameras in the West Wing building and West Wing public access points and parking lots ("West Wing"). The Sheriff's Department has primary use responsibility of the cameras in the East Wing building, Board of Supervisor's chambers and hallways, and the public access points to the East Wing of the County Government Center ("East Wing").

606.3 PROCEDURE

The following procedures have been established for the effective operation of the public safety camera system by members of the Bureau of Investigation.

606.3.1 MONITORING

Images from the West Wing cameras will be recorded on a 24-hour basis every day of the week.

These images will be transmitted to a server and monitor system installed in the equipment/ computer room on the 3rd floor of the West Wing.When activity warranting further investigation is reported or detected at any camera location, an assigned investigator may selectively view the appropriate camera and relay any available information to appropriate law enforcement personnel. The assigned investigator is authorized to adjust the cameras to more effectively view a particular area for any legitimate public safety purpose.

The cameras only record images and do not record sound. Recorded images may be used for a variety of purposes, including criminal investigations and monitoring of activity around high value

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

or high threat areas (e.g. evidence rooms). In addition, the public safety camera system may be used for the following purposes:

(a) To assist in the identification and prevention of threats.

(b) To assist in identifying, apprehending and prosecuting offenders.

(c) To assist in gathering evidence for criminal court actions.

(d) To help emergency services personnel respond to emergency events.

(e) To assist in resolving a citizen or employee complaint or an internal affairs or other county or law enforcement investigation.

(f) As otherwise required by law.

606.3.2 SYSTEM ACCESS

The Chief Investigator shall assign investigative supervisors to have specific access and permissions within the security camera system which will allow for system administration and the downloading of recorded events to other digital medium. All other investigators shall have "view only" access as described in the "Monitoring" section of this policy. Those assigned "access" are described as follows:

Tier One Access – The Administrative Lieutenant (AL) (and a designated back-up investigator/ civilian) shall be the system administrator who has complete access to the security camera system. The AL shall be responsible for system functionality, maintenance, software upgrades and coordination with the Sheriff's Department.

Tier Two Access –Access by the Chief Investigator, Captain and Lieutenants shall be limited to live viewing, historical viewing and with permissions to download events for one of the defined purposes described in the "Monitoring" section of this policy.

Tier Three Access – Bureau investigators' access shall be limited to live viewing when an event occurs as described in the "Monitoring" section of this policy. Such access allows for selectively viewing an appropriate camera, to adjust the camera to more effectively view a particular area and to view an event from beginning to end. Casual live viewing with no authorized purpose is prohibited.

606.3.3 SYSTEM USE DOCUMENTATION

In order to ensure that the use of the security camera system is in accordance with the defined purposes as described in the "Monitoring" section of this policy, investigators shall complete the "Security Camera Use Log" upon utilization of the system. The date and time of use, reason for the use, associated criminal case number (if applicable), name and badge number of the user, and action taken (video downloaded, view only etc.). This form shall remain at the monitoring

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

station or separately with Tier One and Tier Two users and shall become part of the auditing record. For purposes of "utilization", investigators that access the system in response to events or circumstance that are purpose driven within the scope of permissible uses shall log related activity.

Monitoring security cameras as part of the Duty Officer or Operations Officer function during a regular patrol check for suspicious activity, shall not be required to log the event until such a time that such a review results in actionable information that necessitates a response by the Duty or Operations Officer or the review becomes purpose driven as described above.

606.3.4 TRAINING
Personnel involved in video monitoring will be appropriately trained and supervised.

606.3.5 PROHIBITED ACTIVITY
Video monitoring will be conducted in a professional, ethical and legal manner. The public safety camera system will not be used to invade the privacy of individuals, to look into private areas or areas where a reasonable expectation of privacy exists. All reasonable efforts will be taken to protect these rights. Video monitoring shall not be used to harass, intimidate or discriminate against any individual or group.

606.3.6 MEDIA STORAGE
All media will be stored in a secure area with access restricted to authorized persons. Recordings not otherwise needed for official reasons shall be retained for a period of no more or no less than 100 days unless precluded by limitations of the system storage capacity or unless otherwise required by law. Notwithstanding this provision, recordings made of secured rooms in which contraband, evidence or firearms are located may be retained for a longer period of time.

Any recordings needed as evidence in a criminal or civil proceeding shall be copied to a suitable medium and booked into evidence in accordance with current evidence procedures (Government Code § 34090.6).

606.4 PUBLIC AND OTHER GOVERNMENT AGENCY REQUESTS
Requests for recorded video images from other government agencies or by the submission of a court order or subpoena shall be promptly submitted to the Administrative Lieutenant, who will research the request and submit the results of such search through the Chief Investigator to the County Counsel's office for further review. Every reasonable effort shall be made to preserve the data requested until the request has been fully processed by the County Counsel's office.

Video images captured by the public safety camera system that are requested by the public or media through a CPRA request, will be made available only to the extent required by law. Any such request shall be directed to the Chief Investigator who will review the request with the designated Assistant District Attorney and assigned County Counsel.Every reasonable effort shall be made to preserve the data requested until the request has been fully processed by the County Counsel's office.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Video images needed for a criminal investigation or other official reason shall be collected and booked in accordance with current evidence procedures and criminal retention periods.

606.5 AUDIT OF THE PUBLIC SAFETY CAMERA SYSTEM

The Chief Investigator shall direct an audit of the public safety camera system every six months or at more frequent intervals should the need arise. The audit will include an inventory of video monitoring installations, date of installation, adherence to this policy, downloading of video events, and any proposed policy changes. The results of each review will be documented and maintained by the Chief Investigator. Any concerns or deviations from this policy will be addressed promptly and effectively.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

ALPR End-User Policy

607.1 PURPOSE AND SCOPE

The Santa Clara County District Attorney's Office (SCCDA) is an automated license plate recognition (ALPR) "end-user." As an "end-user," authorized investigators may access license plate information from systems controlled by private and outside law enforcement ALPR operator agencies to investigate and prosecute criminal activity in Santa Clara County.

To support the mission of the SCCDA, investigators with a need and right to know will access ALPR data for the following purposes:

- Locate stolen, wanted, and subject of investigation vehicles;
- Locate and apprehend individuals subject to arrest warrants or otherwise lawfully sought by law enforcement;
- Locate victims and witnesses of crime;
- Locate missing or abducted children and elderly individuals, including responding to Amber or SilverAlerts;
- Support local, state, federal and tribal public safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes;
- Protect participants at special events;
- Protect critical infrastructure sites.

607.2 PROCEDURE

Investigators in the Bureau of Investigation shall comply with the District Attorney's Office APLR "End-User" policy including restrictions on use, training, information security, audit, and retention - See attachment: PPM 607 DA ALPR Policy.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Use of County Vehicles

608.1 PURPOSE AND SCOPE

Bureau of Investigation employees are assigned to use County owned or controlled vehicles in order to facilitate the performance of their job duties. Bureau of Investigation employees will use their assigned County vehicles for official business only. Employees will not use County vehicles to conduct personal business except as allowed by the Board of Supervisors' Comprehensive Vehicle Policy.

Absent exigent circumstances, Bureau of Investigation employees will not use County owned or controlled vehicles during non-business hours without prior approval of a Lieutenant, Captain or the Chief Investigator.

In some cases, County owned or controlled vehicles may be designated as "Assigned Take-Home Vehicles" pursuant to the provisions of the Board of Supervisors' Comprehensive Vehicle Policy or Salary Ordinance. "Assigned Take-Home Vehicles" are generally limited to Criminal Investigators (830.1 PC) who are actively assigned to one of the call-out teams.

Bureau of Investigation employees will comply with all applicable provisions of the Board of Supervisors' Comprehensive Vehicle Policy (Board of Supervisors Policy Manual § 3.52 and Bureau of Investigation Policy 340 – Standards of Conduct).

608.2 PROCEDURE

608.2.1 DEPARTMENT FLEET LIAISON

A Lieutenant from the Bureau of Investigation will be designated as the Departmental Fleet Liaison for the Office of the District Attorney. The Departmental Fleet Liaison will have the primary responsibility for managing the use of all County owned or controlled vehicles in use by the Office of the District Attorney. The Departmental Fleet Liaison's duties include:

- Act as the primary point of contact for the County Fleet Manager and Fleet Management in general
- Ensure that monthly mileage is collected for all vehicles and reported to Fleet Management
- Ensure that preventative maintenance of County owned and controlled vehicles is completed in a timely manner
- Ensure that all damage and/or vehicle collisions are reported to ESA Risk Management and Fleet Management in a timely manner
- Serve as the representative of the Office of the District Attorney on the County Vehicle Accident Review Board (VARB)
- Act as primary point of contact for County Communications with respect to vehicle mounted and handheld police radios

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

- Assign County owned or controlled vehicles and formulate vehicle rotation plans as necessary
- Conduct inspections of County owned and controlled vehicles
- Ensure adequate and safe parking space for County owned or controlled vehicles assigned to the Office of the District Attorney
- Plan for the periodic replacement of vehicles assigned to the Office of the District Attorney within County policy
- Prepare recommendations for decreasing or increasing the size of the Office of the District Attorney's fleet based upon current needs (Fleet Rightsizing)
- Prepare annual and periodic reports relating to "Assigned Take Home Vehicles"

608.2.2 VEHICLE COLLISIONS

All collisions, losses or damage involving a County owned or controlled vehicle will be reported to ESA Risk Management and Fleet Services as soon as possible and, without exception, no later than 24 hours after the occurrence. If a collision results in an injury, it should be reported immediately.

All employees of the Office of the District Attorney should familiarize themselves with the County Accident / Incident procedures as outlined in the current Fleet Customer Service Guide booklet. All accident / incident reports should be made on the Santa Clara County – Vehicle Accident / Incident Report form (Form 1542).

All reports will be submitted to the involved driver's supervisor for review. If the involved driver is unable to complete the report in a timely manner, an investigator from the Bureau of Investigation will be assigned to complete the report.

The involved driver's supervisor will review the report and sign the report where indicated. The completed and reviewed report should be forwarded to the Department Fleet Liaison for transmittal to ESA Risk Management and Fleet Management. If the Departmental Fleet Liaison is unavailable, the involved driver's supervisor will transmit the report to ESA Risk Management and Fleet Management before routing the report to the Department Fleet Liaison for filing.

If the vehicle collision results in injury to an employee of the Office of the District Attorney, the employee's supervisor will immediately report the accident to ESA Risk Management [(408) 441-4340] and the Worker's Compensation Department [(408) 441-4300]. All collisions resulting in serious injuries or major property damage should also be reported to the Office of County Counsel's Investigator [(408) 299-5954 office or (408) 421-6724 mobile].

The injured employee's supervisor will ensure that the State of California Workers' Compensation Claim Form (DWC 1) and the Santa Clara County Employer's Report of Occupational Injury or Illness form are completed and submitted to the Office of the District Attorney's Human Resource Service Center.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

608.2.3 PARKING

Employees of the Office of the District Attorney will park their assigned County owned or controlled vehicle in the Designated Parking Area. All County employees are responsible for any moving violations and/or parking citations they receive during the operation of a County owned or controlled vehicle [Board of Supervisors' Policy 3.52.3.2 (V)(1)].

608.2.4 VEHICLE MAINTENANCE AND REPAIR

Employees of the Bureau of Investigation are responsible for facilitating the maintenance and repair of their assigned vehicle. This includes ensuring that their assigned vehicle is taken to the Fleet Management garage for all routine periodic maintenance as described in the Fleet Customer Service Guide. Normally, email reminders of periodic maintenance are sent to employees who have assigned vehicles.

Employees of the Bureau of Investigation will also submit their assigned vehicle for the repair of any mechanical defect that they become aware of while operating the vehicle. If a mechanical defect is detected that renders the assigned vehicle unsafe or inoperable, the Bureau of Investigation employee will immediately arrange to have the vehicle towed to the Fleet Management garage for repair.

Service that involves bodywork, painting or vehicle detailing is performed at the Elmwood Correctional Facility. Due to security concerns, any item that is not part of the vehicle shall be removed prior to submitting the vehicle for these repairs or services. This includes pens, pencils, paperclips, credit cards, personal items, ammunition, tools, child car seats, first aid kits and road flares.

608.2.5 FUELING

County owned vehicles will normally be fuelled at County operated fueling facilities. The locations of current fuelling facilities are listed in the current Fleet Customer Service Guide.

All assigned County owned vehicles are also assigned a fuel credit card. This credit card should be used to purchase fuel at a commercial facility only when it is impractical to go to a County operated fueling facility. The credit card can only be used to fuel the vehicle specified on the card. The fuel credit card will be transferred with the car to the new assigned driver during vehicle rotations.

Employees who find it necessary to purchase fuel for a County vehicle using personal funds will be reimbursed out of petty cash by Fleet Management. To receive reimbursement, the employee must purchase regular unleaded fuel, provide the vehicle number, and present a receipt to Fleet Management.

608.2.6 REPORTING VEHICLE MILEAGE

A member of the Bureau of Investigation support staff will be assigned to the Fleet Desk. The Fleet Desk clerk is tasked to collect and report monthly mileage readings to Fleet Management. The Fleet Desk clerk will send reminder emails to all Office of the District Attorney employees who are assigned County owned or controlled vehicles requesting the monthly mileage reading. All

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

employees should report the mileage to the Fleet Desk clerk by the deadline given. If an employee is unavailable due to vacation, sick leave, etc., the employee's supervisor will ensure that the mileage is reported to the Fleet Desk clerk.

608.2.7 VEHICLE AVAILABILITY

Bureau of Investigation employees who are assigned County owned or controlled vehicles should keep their assigned vehicles in a fueled and operable condition at all times. Whenever, the employee will be away from the office for an extended period (e.g. vacation, training, etc.) and will not require their car, the employee will inform their supervisor of the location of the car and its ignition key. The supervisor may require employees within their respective unit to turn in the key to their assigned car so that the vehicle may be used by other employees in their absence.

608.2.8 NON-BUSINESS HOURS USE

If an employee's duties require the use of a County owned or controlled vehicle during non-business hours, the employee will submit a USE OF COUNTY VEHICLE form to their division Lieutenant, explaining the circumstances requiring the use of the vehicle during non-business hours and requesting permission for such use. The division Lieutenant will evaluate this request. If the division Lieutenant approves the after hours use of the County vehicle, the Lieutenant will note such approval on the request form.

If the need for the use of a County owned or controlled vehicle occurs unexpectedly during hours when a division Lieutenant, a unit Team Leader, Captain, or the Chief Investigator is unavailable for prior approval, the employee should at minimum send an email message to their division lieutenant stating that a County vehicle is being used and for what purpose. As soon as practical, employees will complete and submit a signed "Use of County Vehicle" form to their division lieutenant who will route the completed form to the Office Fleet Liaison for retention.

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Attachments

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation

Statutes and Legal Requirements.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

PPM 507 Sequential Line Up Form (859.7PC).pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Bureau of Investigation Credit Card Use Form.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Bureau of Investigation Credit Card Use Form

Part 1

BOI #_____

Approx. Date(s)	Anticipated Credit Card Use (e.g. rental car gas, food for witness etc.)	Approximate Amount

_____ _____
Investigator Signature Date Lieutenant Signature Date

_____ _____
Credit Card Number Travel Authorization Number (if applicable)

Part 2

Purchase Date	Reason For Expenditure	Purchase Amount

_____ _____
Investigator Signature Date Lieutenant Signature Date

Credit Card Returned To: _____ _____
Print Name Signature

514 Informant Management Documents.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

COUNTY OF SANTA CLARA
OFFICE OF THE DISTRICT ATTORNEY
BUREAU OF INVESTIGATION

INFORMANT ADMONITION

1. Informant Control Number: _____

2. Name: _____
   Last First Middle

READ CAREFULLY AND INITIAL

I understand that:

3. I am not an employee, investigator, or officer of the Santa Clara County District Attorney's Office, Bureau of Investigation (BOI). _____

4. I am not a police officer and will not carry any identification or equipment unless given a direct order to do so by an investigator with the Santa Clara County District Attorney's Office. _____

5. I understand that I am not privileged to break any laws during the course of assisting the BOI and that I will not handle any drugs unless specifically authorized under Section 11367 of the Health and Safety Code. _____

6. I will follow the directions of the investigators of the Santa Clara County District Attorney and understand the laws of entrapment and will not intentionally entrap a person to violate the law. _____

7. I will not disclose my association with the BOI unless in answer to a subpoena or directed to do so by an investigator with the Santa Clara County District Attorney. _____

8. I want to help the Santa Clara County District Attorney's Office BOI because:

   _____

   _____

   _____

9. I understand these regulations and I am willing to provide assistance in accordance with these regulations.

   _____
   Print Name Signature Date

Witness:

_____

COUNTY OF SANTA CLARA
OFFICE OF THE DISTRICT ATTORNEY
BUREAU OF INVESTIGATION

INFORMANT FILE CHECKLIST

Informant:_____

Name Control Number

ATTACHMENTS

DMV-CDL Printout:	☐ Yes ☐ No	Fingerprint Card (Required if no criminal history prints on file):	☐ Yes ☐ No
DMV Vehicle Registration:	☐ Yes ☐ No	Fingerprint Response received from CII:	☐ Yes ☐ No
CDL Photograph:	☐ Yes ☐ No	Informant Personal History Form:	☐ Yes ☐ No
Recent Photograph:	☐ Yes ☐ No	Informant Admonition Form:	☐ Yes ☐ No
Criminal History:	☐ Yes ☐ No	Informant Performance Record:	☐ Yes ☐ No
Wants/Warrants:	☐ Yes ☐ No		

Other: _____ ☐ Yes ☐ No

QUARTERLY INQUIRIES
(Attached DMV and Wants/Warrants Print-Outs)

Date	Initials	Remarks

Date Informant File Became Inactive: _____

COUNTY OF SANTA CLARA
OFFICE OF THE DISTRICT ATTORNEY
BUREAU OF INVESTIGATION

INFORMANT PERFORMANCE RECORD

Informant Name: _____ Control Number: _____

Case Number: _____ Date(s): _____

Type of Activity: _____

_____

_____

Expenditure Approved: ☐ Yes ☐ No

Date	Voucher No.	Evidence Purchased	Informant Expenses	Information	Total Expenses

Supervisor Comments:

_____

_____

_____

Investigator: _____ Team Leader: _____

Lieutenant: _____ Captain: _____

Chief Investigator: _____

COUNTY OF SANTA CLARA
OFFICE OF THE DISTRICT ATTORNEY
BUREAU OF INVESTIGATION

INFORMANT PERSONAL HISTORY

1. Date:_____ 2. Informant Control No.:_____

3. Name:_____
LAST FIRST MIDDLE

4. Alias:_____

5. Address:_____

City:_____ State:_____ Zip:_____

6. Race:_____ 7. Sex:_____ 8. DOB:_____

9. Height:_____ 10. Weight:_____ 11. Hair:_____ 12. Eyes:_____

13. Occupation:_____ 14. Employer:_____

15. Home Phone:_____ 16. Work Phone:_____

17. Work Address:_____

18. Identifying Characteristics:_____

---

19. CII #:_____ 20. SSN#:_____

21. FBI #:_____ 22. PFN #:_____

23. DL #: a. _____ b. _____ c. _____
STATE EXPIRATION

24. Warrant Check:_____
FTA or WARRANT (Y/N)

25. WSIN Check: Reliable_____ Unreliable_____ No Record_____ Other_____

26. Criminal History: Probation_____ Parole_____ Expunged_____ Other_____

Other (explain):_____

27. Vehicle: Year:_____ Make:_____ Model:_____

Lic #:_____

28. Emergency Contact:

a. _____
Last Name First Middle Relationship

Address: _____ Phone:_____

b. _____
Last Name First Middle Relationship

Address: _____ Phone:_____

29. Informant Motivation: _____

---

30. Will Informant Testify: Yes: _____ No: _____

31. Informant Admonition form attached: Yes: _____ No: _____

32. _____ _____
Investigator's Name (print or type) Investigator's Signature Date

33. _____ Approval: _____ Date: _____
Lieutenant's Signature Yes/No

34. _____ Approval: _____ Date: _____
Captain's Signature Yes/No

35. _____ Approval: _____ Date: _____
Chief Investigator's Signature Yes/No

36. _____ Approval: _____ Date: _____
DDA's Signature Yes/No

Commission on Peace Officer Standards and Training Hate Crimes Model Policy 2019.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Naloxone Attachments.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

ATTACHMENT A

Training Acknowledgement
Naloxone (NARCAN) Training

I acknowledge I have completed the initial Naloxone (Narcan) training provided by the Santa Clara County Public Health Staff on _____ (date). This included how to properly perform patient assessment and administer Naloxone for a suspected opioid overdose. I have also received and understand the Bureau's policy associated to the control, storage and deployment of Naloxone.

Print Name _____

Signature

Date _____

Training Acknowledgement
Naloxone (NARCAN) Training

I acknowledge I have completed the Naloxone (Narcan) refresher training video https://www.narcan.com/ on _____ (date). This included how to properly perform patient assessment and administer Naloxone for a suspected opioid overdose. I have also received and understand the Bureau's policy associated to the control, storage and deployment of Naloxone.

Print Name _____

Signature _____

Date _____

ATTACHMENT B

NALOXONE USE NOTIFICATION

Directions:

- Please use one form for each Naloxone usage
- Submit to the Santa Clara County EMS Agency within 96 hours of Naloxone use

Law Enforcement Agency Name: _____

Law Enforcement Officer Name: _____

Location of Incident: _____

Street Address: _____

Nature of Incident: _____

Patient's Name (if known): _____ Patient Age: _____ Sex: _____

Time on scene: _____

Was Patient Conscious?	Yes	No
Was Patient Breathing?	Yes	No
Was CPR performed?	Yes	No
Was an AED used?	Yes	No
Was Naloxone Administered?	Yes	No

Time of Administration: Dose #1 _____ Dose #2 (if applicable) _____

How was it determined there was a suspected opiate overdose? _____

_____

_____

Did the patient wake up? : Yes No

Time of EMS on scene: _____

Was patient transported to the hospital? Yes No

PPM 217 Hepatitis Vaccination Form.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

HEPATITIS B VACCINATION FORM

INSTRUCTIONS: Please indicate whether or not you intend to obtain the vaccination by checking one of the appropriate boxes below and filling out the signature box at the bottom of this form.

Statement of Intent to obtain Hepatitis B Vaccine

I will contact the appropriate medical facility and obtain information regarding the risks/benefits about Hepatitis B. I understand that although the vaccine has been shown to be very effective, complete protection cannot be guaranteed. I understand that the vaccine is given as a series of three injections and that I should receive all three.

☐ I would like to receive the Hepatitis B Vaccine and I will contact the applicable health plan provider as listed below:

☐ **Employee Health** located at 751 S. Bascom Ave., Building Q, Suite 160 (Valley Specialty Center). *
☐ **Kaiser Health Plan members** may go to the Kaiser location that is convenient for them. **
☐ **Valley Health Plan members** may go to the Valley Health location that is convenient for them. **
☐ **Health Net members** may go to the Health Net location that is convenient for them. **

* **No Charge for County Employees**
** **Applicable co-pays will be charged**

Employee Name: _____ Date Signed: _____
(Print legibly or type)
Signature: _____
Department: Santa Clara County District Attorney Bureau of Investigations
Telephone: _____ Fax: _____ Email: _____

Statement of Declination to Receive Hepatitis B Vaccination

I understand that due to my occupational exposure to blood or other potentially infectious materials, I may be at risk of acquiring Hepatitis B virus (HBV) infection. I have been given the opportunity to be vaccinated with the Hepatitis B vaccine at no charge to me.

☐ **I decline the Hepatitis B vaccination at this time. I understand that by declining this vaccine, I continue to be at risk of acquiring Hepatitis B, a serious disease. If in the future, I continue to have occupational exposure to blood or other potentially infectious materials and want to be vaccinated with the Hepatitis B vaccine, I can receive the vaccination series at no charge to me.**

Employee Name: _____ Date Signed: _____
(Print legibly or type)
Signature: _____
Department: Santa Clara County District Attorney Bureau of Investigations
Telephone: _____ Fax: _____ Email: _____

TREATMENT AUTHORIZATION

Authorized by (Supervisor):
Print Name: _____ Title: _____
Signature: _____

Please return: Original – BOI Safety Officer **Copy – Employee**

PPM 216 DWC-1 2016.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Workers' Compensation Claim Form (DWC 1) & Notice of Potential Eligibility

Formulario de Reclamo de Compensación de Trabajadores (DWC 1) y Notificación de Posible Elegibilidad

If you are injured or become ill, either physically or mentally, because of your job, including injuries resulting from a workplace crime, you may be entitled to workers' compensation benefits. Use the attached form to file a workers' compensation claim with your employer. **You should read all of the information below.** Keep this sheet and all other papers for your records. You may be eligible for some or all of the benefits listed depending on the nature of your claim. If you file a claim, the claims administrator, who is responsible for handling your claim, must notify you within 14 days whether your claim is accepted or whether additional investigation is needed.

To file a claim, complete the "Employee" section of the form, keep one copy and give the rest to your employer. Do this right away to avoid problems with your claim. In some cases, benefits will not start until you inform your employer about your injury by filing a claim form. Describe your injury completely. Include every part of your body affected by the injury. If you mail the form to your employer, use first-class or certified mail. If you buy a return receipt, you will be able to prove that the claim form was mailed and when it was delivered. Within one working day after you file the claim form, your employer must complete the "Employer" section, give you a dated copy, keep one copy, and send one to the claims administrator.

Medical Care: Your claims administrator will pay for all reasonable and necessary medical care for your work injury or illness. Medical benefits are subject to approval and may include treatment by a doctor, hospital services, physical therapy, lab tests, x-rays, medicines, equipment and travel costs. Your claims administrator will pay the costs of approved medical services directly so you should never see a bill. There are limits on chiropractic, physical therapy, and other occupational therapy visits.

The Primary Treating Physician (PTP) is the doctor with the overall responsibility for treatment of your injury or illness.

- If you previously designated your personal physician or a medical group, you may see your personal physician or the medical group after you are injured.
- If your employer is using a medical provider network (MPN) or Health Care Organization (HCO), in most cases, you will be treated in the MPN or HCO unless you predesignated your personal physician or a medical group. An MPN is a group of health care providers who provide treatment to workers injured on the job. You should receive information from your employer if you are covered by an HCO or a MPN. Contact your employer for more information.
- If your employer is not using an MPN or HCO, in most cases, the claims administrator can choose the doctor who first treats you unless you predesignated your personal physician or a medical group.
- If your employer has not put up a poster describing your rights to workers' compensation, you may be able to be treated by your personal physician right after you are injured.

Within one working day after you file a claim form, your employer or the claims administrator must authorize up to $10,000 in treatment for your injury, consistent with the applicable treating guidelines until the claim is accepted or rejected. If the employer or claims administrator does not authorize treatment right away, talk to your supervisor, someone else in management, or the claims administrator. Ask for treatment to be authorized right now, while waiting for a decision on your claim. If the employer or claims administrator will not authorize treatment, use your own health insurance to get medical care. Your health insurer will seek reimbursement from the claims administrator. If you do not have health insurance, there are doctors, clinics or hospitals that will treat you without immediate payment. They will seek reimbursement from the claims administrator.

Switching to a Different Doctor as Your PTP:

- If you are being treated in a Medical Provider Network (MPN), you may switch to other doctors within the MPN after the first visit.
- If you are being treated in a Health Care Organization (HCO), you may switch at least one time to another doctor within the HCO. You may switch to a doctor outside the HCO 90 or 180 days after your injury is reported to your employer (depending on whether you are covered by employer-provided health insurance).
- If you are not being treated in an MPN or HCO and did not predesignate, you may switch to a new doctor one time during the first 30 days after your injury is reported to your employer. Contact the claims administrator to switch doctors. After 30 days, you may switch to a doctor of your choice if

Si Ud. se lesiona o se enferma, ya sea físicamente o mentalmente, debido a su trabajo, incluyendo lesiones que resulten de un crimen en el lugar de trabajo, es posible que Ud. tenga derecho a beneficios de compensación de trabajadores. Utilice el formulario adjunto para presentar un reclamo de compensación de trabajadores con su empleador. **Ud. debe leer toda la información a continuación.** Guarde esta hoja y todos los demás documentos para sus archivos. Es posible que usted reúna los requisitos para todos los beneficios, o parte de éstos, que se enumeran dependiendo de la índole de su reclamo. Si usted presenta un reclamo, l administrador de reclamos, quien es responsable por el manejo de su reclamo, debe notificarle dentro de 14 días si se acepta su reclamo o si se necesita investigación adicional.

Para presentar un reclamo, llene la sección del formulario designada para el "Empleado," guarde una copia, y déle el resto a su empleador. Haga esto de inmediato para evitar problemas con su reclamo. En algunos casos, los beneficios no se iniciarán hasta que usted le informe a su empleador acerca de su lesión mediante la presentación de un formulario de reclamo. Describa su lesión por completo. Incluya cada parte de su cuerpo afectada por la lesión. Si usted le envía por correo el formulario a su empleador, utilice primera clase o correo certificado. Si usted compra un acuse de recibo, usted podrá demostrar que el formulario de reclamo fue enviado por correo y cuando fue entregado. Dentro de un día laboral después de presentar el formulario de reclamo, su empleador debe completar la sección designada para el "Empleador," le dará a Ud. una copia fechada, guardará una copia, y enviará una al administrador de reclamos.

Atención Médica: Su administrador de reclamos pagará por toda la atención médica razonable y necesaria para su lesión o enfermedad relacionada con el trabajo. Los beneficios médicos están sujetos a la aprobación y pueden incluir tratamiento por parte de un médico, los servicios de hospital, la terapia física, los análisis de laboratorio, las medicinas, equipos y gastos de viaje. Su administrador de reclamos pagará directamente los costos de los servicios médicos aprobados de manera que usted nunca verá una factura. Hay límites en terapia quiropráctica, física y otras visitas de terapia ocupacional.

El Médico Primario que le Atiende *(Primary Treating Physician- PTP)* es el médico con la responsabilidad total para tratar su lesión o enfermedad.

- Si usted designó previamente a su médico personal o a un grupo médico, usted podrá ver a su médico personal o grupo médico después de lesionarse.
- Si su empleador está utilizando una red de proveedores médicos (*Medical Provider Network- MPN)* o una Organización de Cuidado Médico *(Health Care Organization- HCO)*, en la mayoría de los casos, usted será tratado en la *MPN* o *HCO* a menos que usted hizo una designación previa de su médico personal o grupo médico. Una *MPN* es un grupo de proveedores de asistencia médica quien da tratamiento a los trabajadores lesionados en el trabajo. Usted debe recibir información de su empleador si su tratamiento es cubierto por una *HCO* o una *MPN*. Hable con su empleador para más información.
- Si su empleador no está utilizando una *MPN* o *HCO*, en la mayoría de los casos, el administrador de reclamos puede elegir el médico que lo atiende primero a menos de que usted hizo una designación previa de su médico personal o grupo médico.
- Si su empleador no ha colocado un cartel describiendo sus derechos para la compensación de trabajadores, Ud. puede ser tratado por su médico personal inmediatamente después de lesionarse.

Dentro de un día laboral después de que Ud. Presente un formulario de reclamo, su empleador o el administrador de reclamos debe autorizar hasta $10000 en tratamiento para su lesión, de acuerdo con las pautas de tratamiento aplicables, hasta que el reclamo sea aceptado o rechazado. Si el empleador o administrador de reclamos no autoriza el tratamiento de inmediato, hable con su supervisor, alguien más en la gerencia, o con el administrador de reclamos. Pida que el tratamiento sea autorizado ya mismo, mientras espera una decisión sobre su reclamo. Si el empleador o administrador de reclamos no autoriza el tratamiento, utilice su propio seguro médico para recibir atención médica. Su compañía de seguro médico buscará reembolso del administrador de reclamos. Si usted no tiene seguro médico, hay médicos, clínicas u hospitales que lo tratarán sin pago inmediato. Ellos buscarán reembolso del administrador de reclamos.

Cambiando a otro Médico Primario o *PTP*:

- Si usted está recibiendo tratamiento en una Red de Proveedores Médicos

your employer or the claims administrator has not created or selected an MPN.

Disclosure of Medical Records: After you make a claim for workers' compensation benefits, your medical records will not have the same level of privacy that you usually expect. If you don't agree to voluntarily release medical records, a workers' compensation judge may decide what records will be released. If you request privacy, the judge may "seal" (keep private) certain medical records.

Problems with Medical Care and Medical Reports: At some point during your claim, you might disagree with your PTP about what treatment is necessary. If this happens, you can switch to other doctors as described above. If you cannot reach agreement with another doctor, the steps to take depend on whether you are receiving care in an MPN, HCO, or neither. For more information, see "Learn More About Workers' Compensation," below.

If the claims administrator denies treatment recommended by your PTP, you may request independent medical review (IMR) using the request form included with the claims administrator's written decision to deny treatment. The IMR process is similar to the group health IMR process, and takes approximately 40 (or fewer) days to arrive at a determination so that appropriate treatment can be given. Your attorney or your physician may assist you in the IMR process. IMR is not available to resolve disputes over matters other than the medical necessity of a particular treatment requested by your physician.

If you disagree with your PTP on matters other than treatment, such as the cause of your injury or how severe the injury is, you can switch to other doctors as described above. If you cannot reach agreement with another doctor, notify the claims administrator in writing as soon as possible. In some cases, you risk losing the right to challenge your PTP's opinion unless you do this promptly. If you do not have an attorney, the claims administrator must send you instructions on how to be seen by a doctor called a qualified medical evaluator (QME) to help resolve the dispute. If you have an attorney, the claims administrator may try to reach agreement with your attorney on a doctor called an agreed medical evaluator (AME). If the claims administrator disagrees with your PTP on matters other than treatment, the claims administrator can require you to be seen by a QME or AME.

Payment for Temporary Disability (Lost Wages): If you can't work while you are recovering from a job injury or illness, you may receive temporary disability payments for a limited period. These payments may change or stop when your doctor says you are able to return to work. These benefits are tax-free. Temporary disability payments are two-thirds of your average weekly pay, within minimums and maximums set by state law. Payments are not made for the first three days you are off the job unless you are hospitalized overnight or cannot work for more than 14 days.

Stay at Work or Return to Work: Being injured does not mean you must stop working. If you can continue working, you should. If not, it is important to go back to work with your current employer as soon as you are medically able. Studies show that the longer you are off work, the harder it is to get back to your original job and wages. While you are recovering, your PTP, your employer (supervisors or others in management), the claims administrator, and your attorney (if you have one) will work with you to decide how you will stay at work or return to work and what work you will do. Actively communicate with your PTP, your employer, and the claims administrator about the work you did before you were injured, your medical condition and the kinds of work you can do now, and the kinds of work that your employer could make available to you.

Payment for Permanent Disability: If a doctor says you have not recovered completely from your injury and you will always be limited in the work you can do, you may receive additional payments. The amount will depend on the type of injury, extent of impairment, your age, occupation, date of injury, and your wages before you were injured.

Supplemental Job Displacement Benefit (SJDB): If you were injured on or after 1/1/04, and your injury results in a permanent disability and your employer does not offer regular, modified, or alternative work, you may qualify for a nontransferable voucher payable for retraining and/or skill enhancement. If you qualify, the claims administrator will pay the costs up to the maximum set by state law.

Death Benefits: If the injury or illness causes death, payments may be made to a

(Medical Provider Network- MPN), usted puede cambiar a otros médicos dentro de la MPN después de la primera visita.

- Si usted está recibiendo tratamiento en un Organización de Cuidado Médico (Healthcare Organization- HCO), es posible cambiar al menos una vez a otro médico dentro de la HCO. Usted puede cambiar a un médico fuera de la HCO 90 o 180 días después de que su lesión es reportada a su empleador (dependiendo de si usted está cubierto por un seguro médico proporcionado por su empleador).
- Si usted no está recibiendo tratamiento en una MPN o HCO y no hizo una designación previa, usted puede cambiar a un nuevo médico una vez durante los primeros 30 días después de que su lesión es reportada a su empleador. Póngase en contacto con el administrador de reclamos para cambiar de médico. Después de 30 días, puede cambiar a un médico de su elección si su empleador o el administrador de reclamos no ha creado o seleccionado una MPN.

Divulgación de Expedientes Médicos: Después de que Ud. presente un reclamo para beneficios de compensación de trabajadores, sus expedientes médicos no tendrán el mismo nivel de privacidad que usted normalmente espera. Si Ud. no está de acuerdo en divulgar voluntariamente los expedientes médicos, un juez de compensación de trabajadores posiblemente decida qué expedientes serán revelados. Si usted solicita privacidad, es posible que el juez "selle" (mantenga privados) ciertos expedientes médicos.

Problemas con la Atención Médica y los Informes Médicos: En algún momento durante su reclamo, podría estar en desacuerdo con su *PTP* sobre qué tratamiento es necesario. Si esto sucede, usted puede cambiar a otros médicos como se describe anteriormente. Si no puede llegar a un acuerdo con otro médico, los pasos a seguir dependen de si usted está recibiendo atención en una *MPN*, *HCO* o ninguna de las dos. Para más información, consulte la sección "Aprenda Más Sobre la Compensación de Trabajadores," a continuación.

Si el administrador de reclamos niega el tratamiento recomendado por su *PTP*, puede solicitar una revisión médica independiente *(Independent Medical Review-IMR)*, utilizando el formulario de solicitud que se incluye con la decisión por escrito del administrador de reclamos negando el tratamiento. El proceso de la *IMR* es parecido al proceso de la *IMR* de un seguro médico colectivo, y tarda aproximadamente 40 (o menos) días para llegar a una determinación de manera que se pueda dar un tratamiento apropiado. Su abogado o su médico le pueden ayudar en el proceso de la *IMR*. La *IMR* no está disponible para resolver disputas sobre cuestiones aparte de la necesidad médica de un tratamiento particular solicitado por su médico.

Si no está de acuerdo con su *PTP* en cuestiones aparte del tratamiento, como la causa de su lesión o la gravedad de la lesión, usted puede cambiar a otros médicos como se describe anteriormente. Si no puede llegar a un acuerdo con otro médico, notifique al administrador de reclamos por escrito tan pronto como sea posible. En algunos casos, usted arriesg perder el derecho a objetar a la opinión de su *PTP* a menos que hace esto de inmediato. Si usted no tiene un abogado, el administrador de reclamos debe enviarle instrucciones para ser evaluado por un médico llamado un evaluador médico calificado *(Qualified Medical Evaluator-QME)* para ayudar a resolver la disputa. Si usted tiene un abogado, el administrador de reclamos puede tratar de llegar a un acuerdo con su abogado sobre un médico llamado un evaluador médico acordado *(Agreed Medical Evaluator- AME)*. Si el administrador de reclamos no está de acuerdo con su *PTP* sobre asuntos aparte del tratamiento, el administrador de reclamos puede exigirle que sea atendido por un *QME* o *AME*.

Pago por Incapacidad Temporal (Sueldos Perdidos): Si Ud. no puede trabajar, mientras se está recuperando de una lesión o enfermedad relacionada con el trabajo, Ud. puede recibir pagos por incapacidad temporal por un periodo limitado. Estos pagos pueden cambiar o parar cuando su médico diga que Ud. está en condiciones de regresar a trabajar. Estos beneficios son libres de impuestos. Los pagos por incapacidad temporal son dos tercios de su pago semanal promedio, con cantidades mínimas y máximas establecidas por las leyes estales. Los pagos no se hacen durante los primeros tres días en que Ud. no trabaje, a menos que Ud. sea hospitalizado una noche o no puede trabajar durante más de 14 días.

Permanezca en el Trabajo o Regreso al Trabajo: Estar lesionado no significa que usted debe dejar de trabajar. Si usted puede seguir trabajando, usted debe hacerlo. Si no es así, es importante regresar a trabajar con su empleador actual tan

spouse and other relatives or household members who were financially dependent on the deceased worker.

It is illegal for your employer to punish or fire you for having a job injury or illness, for filing a claim, or testifying in another person's workers' compensation case (Labor Code 132a). If proven, you may receive lost wages, job reinstatement, increased benefits, and costs and expenses up to limits set by the state.

Resolving Problems or Disputes: You have the right to disagree with decisions affecting your claim. If you have a disagreement, contact your employer or claims administrator first to see if you can resolve it. If you are not receiving benefits, you may be able to get State Disability Insurance (SDI) or unemployment insurance (UI) benefits. Call the state Employment Development Department at (800) 480-3287 or (866) 333-4606, or go to their website at www.edd.ca.gov.

You Can Contact an Information & Assistance (I&A) Officer: State I&A officers answer questions, help injured workers, provide forms, and help resolve problems. Some I&A officers hold workshops for injured workers. To obtain important information about the workers' compensation claims process and your rights and obligations, go to www.dwc.ca.gov or contact an I&A officer of the state Division of Workers' Compensation. You can also hear recorded information and a list of local I&A offices by calling (800) 736-7401.

You can consult with an attorney. Most attorneys offer one free consultation. If you decide to hire an attorney, his or her fee will be taken out of some of your benefits. For names of workers' compensation attorneys, call the State Bar of California at (415) 538-2120 or go to their website at **www.californiaspecialist.org**.

Learn More About Workers' Compensation: For more information about the workers' compensation claims process, go to www.dwc.ca.gov. At the website, you can access a useful booklet, "Workers' Compensation in California: A Guidebook for Injured Workers." You can also contact an Information & Assistance Officer (above), or hear recorded information by calling 1-800-736-7401.

pronto como usted pueda medicamente hacerlo. Los estudios demuestran que entre más tiempo esté fuera del trabajo, más difícil es regresar a su trabajo original y a sus salarios. Mientras se está recuperando, su *PTP*, su empleador (supervisores u otras personas en la gerencia), el administrador de reclamos, y su abogado (si tiene uno) trabajarán con usted para decidir cómo va a permanecer en el trabajo o regresar al trabajo y qué trabajo hará. Comuníquese de manera activa con su *PTP*, su empleador y el administrador de reclamos sobre el trabajo que hizo antes de lesionarse, su condición médica y los tipos de trabajo que usted puede hacer ahora y los tipos de trabajo que su empleador podría poner a su disposición.

Pago por Incapacidad Permanente: Si un médico dice que no se ha recuperado completamente de su lesión y siempre será limitado en el trabajo que puede hacer, es posible que Ud. reciba pagos adicionales. La cantidad dependerá de la clase de lesión, grado de deterioro, su edad, ocupación, fecha de la lesión y sus salarios antes de lesionarse.

Beneficio Suplementario por Desplazamiento de Trabajo *(Supplemental Job Displacement Benefit- SJDB)*: Si Ud. se lesionó en o después del 1/1/04, y su lesión resulta en una incapacidad permanente y su empleador no ofrece un trabajo regular, modificado, o alternativo, usted podría cumplir los requisitos para recibir un vale no-transferible pagadero a una escuela para recibir un nuevo un curso de reentrenamiento y/o mejorar su habilidad. Si Ud. cumple los requisios, el administrador de reclamos pagará los gastos hasta un máximo establecido por las leyes estatales.

Beneficios por Muerte: Si la lesión o enfermedad causa la muerte, es posible que los pagos se hagan a un cónyuge y otros parientes o a las personas que viven en el hogar que dependían económicamente del trabajador difunto.

Es ilegal que su empleador le castigue o despida por sufrir una lesión o enfermedad laboral, por presentar un reclamo o por testificar en el caso de compensación de trabajadores de otra persona. (Código Laboral, sección 132a.) De ser probado, usted puede recibir pagos por pérdida de sueldos, reposición del trabajo, aumento de beneficios y gastos hasta los límites establecidos por el estado.

Resolviendo problemas o disputas: Ud. tiene derecho a no estar de acuerdo con las decisiones que afecten su reclamo. Si Ud. tiene un desacuerdo, primero comuníquese con su empleador o administrador de reclamos para ver si usted puede resolverlo. Si usted no está recibiendo beneficios, es posible que Ud. pueda obtener beneficios del Seguro Estatalde Incapacidad *(State Disability Insurance-SDI)* o beneficios del desempleo *(Unemployment Insurance- UI)*. Llame al Departamento ~~Estatal~~ del Desarrollo del Empleo estatal al (800) 480-3287 o (866) 333-4606, o visite su página Web en www.edd.ca.gov.

Puede Contactar a un Oficial de Información y Asistencia *(Information & Assistance- I&A)*: Los Oficiales de Información y Asistencia *(I&A)* estatal contestan preguntas, ayudan a los trabajadores lesionados, proporcionan formularios y ayudan a resolver problemas. Algunos oficiales de *I&A* tienen talleres para trabajadores lesionados. Para obtener información importante sobre el proceso de la compensación de trabajadores y sus derechos y obligaciones, vaya a www.dwc.ca.gov o comuníquese con un oficial de información y asistencia de la División Estatal de Compensación de Trabajadores. También puede escuchar información grabada y una lista de las oficinas de *I&A* locales llamando al (800) 736-7401.

Ud. puede consultar con un abogado. La mayoría de los abogados ofrecen una consulta gratis. Si Ud. decide contratar a un abogado, los honorarios serán tomados de algunos de sus beneficios. Para obtener nombres de abogados de compensación de trabajadores, llame a la Asociación Estatal de Abogados de California *(State Bar)* al (415) 538-2120, o consulte su página Web en www.californiaspecialist.org.

Aprenda Más Sobre la Compensación de Trabajadores: Para obtener más información sobre el proceso de reclamos del programa de compensación de trabajadores, vaya a www.dwc.ca.gov. En la página Web, podrá acceder a un folleto útil, "Compensación del Trabajador de California: Una Guía para Trabajadores Lesionados." También puede contactar a un oficial de Información y Asistencia (arriba), o escuchar información grabada llamando al 1-800-736-7401.

State of California
Department of Industrial Relations
DIVISION OF WORKERS' COMPENSATION

Estado de California
Departamento de Relaciones Industriales
DIVISION DE COMPENSACIÓN AL TRABAJADOR

WORKERS' COMPENSATION CLAIM FORM (DWC 1)

PETITION DEL EMPLEADO PARA DE COMPENSACIÓN DEL TRABAJADOR (DWC 1)

Employee: Complete the **"Employee"** section and give the form to your employer. Keep a copy and mark it **"Employee's Temporary Receipt"** until you receive the signed and dated copy from your employer. You may call the Division of Workers' Compensation and hear recorded information at **(800) 736-7401.** An explanation of workers' compensation benefits is included in the Notice of Potential Eligibility, which is the cover sheet of this form. Detach and save this notice for future reference.

You should also have received a pamphlet from your employer describing workers' compensation benefits and the procedures to obtain them. You may receive written notices from your employer or its claims administrator about your claim. If your claims administrator offers to send you notices electronically, and you agree to receive these notices only by email, please provide your email address below and check the appropriate box. If you later decide you want to receive the notices by mail, you must inform your employer in writing.

Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers' compensation benefits or payments is guilty of a felony.

Empleado: *Complete la sección* ***"Empleado"*** *y entregue la forma a su empleador. Quédese con la copia designada* ***"Recibo Temporal del Empleado"*** *hasta que Ud. reciba la copia firmada y fechada de su empleador. Ud. puede llamar a la Division de Compensación al Trabajador al* ***(800) 736-7401*** *para oir información gravada. Una explicación de los beneficios de compensación de trabajadores está incluido en la Notificación de Posible Elegibilidad, que es la hoja de portada de esta forma. Separe y guarde esta notificación como referencia para el futuro.*

Ud. también debería haber recibido de su empleador un folleto describiendo los benficios de compensación al trabajador lesionado y los procedimientos para obtenerlos. Es posible que reciba notificaciones escritas de su empleador o de su administrador de reclamos sobre su reclamo. Si su administrador de reclamos ofrece enviarle notificaciones electrónicamente, y usted acepta recibir estas notificaciones solo por correo electrónico, por favor proporcione su dirección de correo electrónico abajo y marque la caja apropiada. Si usted decide después que quiere recibir las notificaciones por correo, usted debe de informar a su empleador por escrito.

Toda aquella persona que a propósito haga o cause que se produzca cualquier declaración o representación material falsa o fraudulenta con el fin de obtener o negar beneficios o pagos de compensación a trabajadores lesionados es culpable de un crimen mayor "felonia".

Employee—complete this section and see note above ***Empleado—complete esta sección y note la notación arriba.***

1. Name. *Nombre.* _____ Today's Date. *Fecha de Hoy.* _____
2. Home Address. *Dirección Residencial.* _____
3. City. *Ciudad.* _____ State. *Estado.* _____ Zip. *Código Postal.* _____
4. Date of Injury. *Fecha de la lesión (accidente).* _____ Time of Injury. *Hora en que ocurrió.* _____a.m. _____p.m.
5. Address and description of where injury happened. *Dirección/lugar dónde occurió el accidente.* _____
6. Describe injury and part of body affected. *Describa la lesión y parte del cuerpo afectada.* _____
7. Social Security Number. *Número de Seguro Social del Empleado.* _____
8. ☐ Check if you agree to receive notices about your claim by email only. ☐ *Marque si usted acepta recibir notificaciones sobre su reclamo solo por correo electrónico.* Employee's e-mail. _____ *Correo electrónico del empleado.* _____.
   You will receive benefit notices by regular mail if you do not choose, or your claims administrator does not offer, an electronic service option. *Usted recibirá notificaciones de beneficios por correo ordinario si usted no escoge, o su administrador de reclamos no le ofrece, una opción de servicio electrónico.*
9. Signature of employee. *Firma del empleado.* _____

Employer—complete this section and see note below. ***Empleador—complete esta sección y note la notación abajo.***

10. Name of employer. *Nombre del empleador.* _____
11. Address. *Dirección.* _____
12. Date employer first knew of injury. *Fecha en que el empleador supo por primera vez de la lesión o accidente.* _____
13. Date claim form was provided to employee. *Fecha en que se le entregó al empleado la petición.* _____
14. Date employer received claim form. *Fecha en que el empleado devolvió la petición al empleador.* _____
15. Name and address of insurance carrier or adjusting agency. *Nombre y dirección de la compañía de seguros o agencia adminstradora de seguros.* _____
16. Insurance Policy Number. *El número de la póliza de Seguro.* _____
17. Signature of employer representative. *Firma del representante del empleador.* _____
18. Title. *Título.* _____ 19. Telephone. *Teléfono.* _____

Employer: You are required to date this form and provide copies to your insurer or claims administrator and to the employee, dependent or representative who filed the claim within **one working day** of receipt of the form from the employee.

SIGNING THIS FORM IS NOT AN ADMISSION OF LIABILITY

Empleador: *Se requiere que Ud. feche esta forma y que provéa copias a su compañía de seguros, administrador de reclamos, o dependiente/representante de reclamos y al empleado que hayan presentado esta petición dentro del plazo de* ***un día hábil*** *desde el momento de haber sido recibida la forma del empleado.*

EL FIRMAR ESTA FORMA NO SIGNIFICA ADMISION DE RESPONSABILIDAD

☐ Employer copy/*Copia del Empleador* ☐ Employee copy/*Copia del Empleado* ☐ Claims Administrator/*Administrador de Reclamos* ☐ Temporary Receipt/*Recibo del Empleado*

PPM 404 Officer Involved Incident Guidelines 2016.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

SANTA CLARA COUNTY
POLICE CHIEFS' ASSOCIATION

OFFICER-INVOLVED INCIDENT GUIDELINES

Adopted December 8, 2016

California Highway Patrol	Ceto Ortiz, Captain
Campbell Police Department	David Carmichael, Chief
Gilroy Police Department	Denise Turner, Chief
Los Altos Police Department	Tuck Younis, Chief
Los Gatos/Monte Sereno Police Department	Matt Frisby, Chief
Milpitas Police Department	Steve Pangelinan, Chief
Morgan Hill Police Department	David Swing, Chief
Mountain View Police Department	Max Bosel, Chief
Palo Alto Police Department	Dennis Burns, Chief
San Jose Police Department	Edgardo Garcia, Chief
San Jose State University Police Department	Peter Decena, Chief
Santa Clara County District Attorney's Office	Jeffrey F. Rosen, District Attorney
Santa Clara County Sheriff's Office	Laurie Smith, Sheriff
Santa Clara County Dept. of Corrections	Carl Neusel, Undersheriff
Santa Clara Police Department	Michael Sellers, Chief
Sunnyvale Department of Public Safety	Frank Grgurina, Chief

David Swing
Chair, Police Chiefs' Association of Santa Clara County

12/8/16
Date

This Page Left Intentionally Blank

FOREWORD

Investigations of Officer-Involved Incidents are frequently more complex and demanding than other incidents which do not involve peace officers or custodial officers. Applicable administrative, criminal statutory and case law is complex and often contradictory. The collection of evidence and its analysis is at issue long after the incident. Questions arise about the propriety of a law enforcement agency conducting an investigation wherein one of its own officers is involved. Public and news media attention is intense.

The potential social, civil, administrative and criminal consequences of Officer-Involved Incidents are profound and affect many parties. If adequate safeguards are not delineated in advance, the public's "right to know" may well conflict with the progress of the investigation and the "right to a fair trial". When several agencies are involved, differences in policy, procedure, personnel, resources and interests may conflict, hamper or delay the investigative process.

As a result of these factors, these guidelines have been developed to guide individual agencies conducting investigations of Officer-Involved Incidents. The goal of these guidelines is to help assure that such cases are fully and fairly investigated, and that proper dispositions of such cases are made based upon all the legally available, relevant evidence.

This document represents the consensus of member agencies as to how such cases are to be investigated. The guidelines permit individual agencies to make modifications in order to meet individual agency regulations. The guidelines are not intended to increase the civil or criminal liability of member agencies or their employees and shall not be construed to create any mandatory obligations to, or on behalf of, third parties. Agencies represented should review their related policies and make every effort to modify them to avoid conflict with these guidelines. Each agency's individual policy may be attached to these guidelines.

A. GENERAL POLICY STATEMENT

Investigations of Officer-Involved Incidents will be conducted to develop all available relevant information about the incident. They will be performed in a manner that provides for a thorough and credible investigation that is free from conflicts-of-interest.

Such investigations are designated "Incident Investigations", the goals of which are to determine:

1. The identity of the person(s) responsible;

2. The existence or non-existence of conduct constituting a criminal act; and

3. If it is determined that a criminal act has been committed, then the following are to be determined:

    a. Any legal or factual defenses to the crime;

    b. The existence of any factors which might mitigate or aggravate punishment for the criminal conduct.

The investigations shall be performed in a manner consistent with the rules of evidence in a criminal proceeding. Any administrative or civil investigation shall be separate and distinctly different from the Incident Investigation.

The investigation of each Incident will commence as promptly as practicable after the occurrence.

B. DEFINITIONS

For the purpose of these guidelines the following definitions are offered:

<u>"Officer-Involved Incident"</u>

An "Officer-Involved Incident" is any incident in which a peace officer or custodial officer (both herein referred to as "Officer"), acting under color of authority, is directly involved in the following:

1. Any discharge of a firearm by an Officer which proximately causes the death of, or injury to another.

2. An intentional use of any other deadly or dangerous weapon by an Officer which proximately causes the death of, or injury likely to produce death to another.

3. An intentional act on the part of an Officer which proximately causes the death of, or injury likely to produce death to another.

4. Any death of person while in custody, or under Officer control.

    a. Excluded from mandatory protocol investigations are post-booking deaths of prisoners, which occur in jails, hospitals or other facilities, while the prisoner is under the custody and care of a Law Enforcement Agency's (LEA) medical care provider for diagnosed diseases or conditions which have been known and monitored and/or treated by the LEA's medical care provider prior to death, but only when the deaths were medically expected and when custodial suicide, trauma, accident, or use of intoxicants was not involved.

"Peace Officer" and "Custodial Officer"

1. Local law enforcement officers defined by Penal Code, § 830.1 et seq. (e.g., Municipal Police, Sheriff, D.A. Investigators, and Reserve Officers and Reserve Deputies defined by Penal Code §830.6.

2. Custodial Officers defined by Penal Code § 831.5 (e.g., DOC Correctional Officers).

3. Probation Officers defined by Penal Code § 830.5

4. State Officers, (e.g., CHP, DOJ, University Police, Parole Officers).

5. Federal Agents, (e.g., FBI, BATFE, U.S. Marshall, I.C.E., DEA).

6. Welfare Fraud and Coroner Investigators defined by Penal Code § 830.35.

"Primary Agency"

The agency, or agencies, with geographic jurisdiction over the incident.

"Employing Agency"

The agency which employs the Involved Officer.

"Officer-Involved"

1. The Officer whose act may be a "proximate cause" of the injury to another person; or

2. The Officer who may intend that his/her act be a "proximate cause" of the injury to another person.

"Proximate Cause"

A cause which, in a natural and continuous sequence, produces the injury, and without which the injury would not have occurred.

"Incident Investigator"

An investigator assigned to the Incident Investigative Team

"Incident Investigative Team"

Incident Investigators assigned by the Primary Agency(cies) and the District Attorney's Office to conduct the Incident Investigation. Persons from an outside agency may also be part of the Incident Investigative Team upon mutual agreement of the Primary Agency and the District Attorney's Office and upon concurrence from the Case Management Team.

"Case Management Team"

The team responsible for managing the Officer Involved Incident and for the supervision of the investigators assigned to the Incident Investigative Team.

C. INVESTIGATIVE RESPONSIBILITY

The responsibility for conducting the Incident Investigation rests with the Incident Investigative Team. The Primary Agency has responsibility for the preservation and security of the scene(s), collection of evidence at the scene(s) and from the Involved Officer(s), including their equipment and/or vehicles, when appropriate.

1. Initial officers at the scene will make all reasonable efforts to preserve and secure the scene, pending the arrival of the Incident Investigators.

2. The Incident Investigative Team usually will conduct the investigation. However, they may seek investigative assistance from other agencies or by those agencies otherwise noted in this protocol.

3. If investigative assistance is obtained from another agency, the Incident Investigative Team may maintain control of the investigation itself, or it may relinquish the primary responsibility for the investigation to the agency from which it obtained the assistance.

4. The District Attorney Crime Lab or the crime scene unit of another jurisdiction may be called upon for assistance at the discretion of the Incident Investigative Team.

5. In Incidents where a vehicular collision or other vehicular movement is involved, another agency may be called upon for investigatory assistance in that phase of the Incident Investigation.

Until agreement regarding investigative responsibility is reached among the various Involved Agencies in a specific case, immediate investigative responsibility is determined in this order:

1. Incident Investigative Team.

2. The agency whose on-duty employee, acting apparently for a law enforcement purpose, was an Involved Officer.

3. The agency within whose jurisdiction the decedent's body was first discovered after infliction of the injury.

If an on-duty peace officer is involved in an Incident within the geographical jurisdiction of another agency, but was acting in the performance of his/her duties in connection with a criminal matter originating in his/her own jurisdiction, the Primary Agency may defer its investigative authority to the officer's own agency, which will then investigate the Incident as part of the Incident Investigative Team.

The Sheriff's Office maintains jurisdictional responsibility for the investigation of criminal conduct that occurs at certain locations within the county. As such the Sheriff's Office shall be part of the Incident Investigative Team and the Incident Management Team for Incidents that occur or emanate from the below listed locations or any other location as noted in the current "Mutual Protocol entered by and between the City of San Jose, on behalf on the San Jose Police Department and, the Office of the Sheriff – Santa Clara County":

1. Within the buildings or secured grounds of detention or correctional facilities, including:

    a. AIB, 875 North San Pedro Street, San Jose

    b. Elmwood Correctional Center (including grounds), 701 South Abel Street, Milpitas

    c. Juvenile Hall, 840 Guadalupe Parkway, San Jose

    d. Main Jail, 180 West Hedding Street, San Jose

2. Within the buildings or secured grounds of Superior Court Facilities, including:

    a. Family Court, 201 N. First St., San Jose

    b. Hall of Justice (East and West), 190 West Hedding Street, San Jose

    c. Juvenile Justice Court, 840 Guadalupe Parkway, San Jose

    d. Downtown Superior Courthouse, 191 North First Street, San Jose

    e. Old Courthouse, 161 North First Street, San Jose

    f. Palo Alto Courthouse, 270 Grant Avenue, Palo Alto

g. Santa Clara Courthouse, 1095 Homestead Road, Santa Clara

h. South County Courthouse, 301 Diana Ave., Morgan Hill

3. On Santa Clara Valley Transportation Authority (VTA) equipment and property, including:

a. VTA light-rail trains;

b. VTA busses;

c. VTA light rail stations and platforms; and

d. VTA parking lots.

4. Within the facilities or grounds of Stanford University.

5. Within the facilities or grounds of the County hospital facility including:

a. Valley Medical Center, 751 S. Bascom Ave., San Jose

D. ROLE OF THE DISTRICT ATTORNEY[1]

During an Incident Investigation the District Attorney Office will:

1. Participate in the management of the incident along with assigned command from the Primary Agency.

2. Assist and advise the Incident Investigative Team on the various legal issues that may arise, including search and seizure, *Miranda*, identification procedures, arrests, elements of crimes, immunity, and voluntariness.

3. Assist in the writing of search warrants and arrest warrants.

4. Monitor the Incident investigation.

5. Ultimately determine if criminal liability exists.

[1] In the event the Involved Officer is a District Attorney Investigator, District Attorney Investigators will not participate on the Incident Investigative Team. Rather, investigators from another Santa Clara County police department or Sheriff's Office, and not part of the Primary Agency, will assume the role of the District Attorney Investigator(s) on the Incident Investigative Team. Such investigators will be selected by the Incident Management Team upon approval of the respective Chief of Police, Sheriff or command staff designees.

E. MANAGEMENT OF AN OFFICER INVOLVED INCIDENT

A Command staff member from the Primary Agency and the District Attorney's Office Bureau of Investigation, along with the assigned Deputy District Attorney, shall comprise the membership of the "Case Management Team (CMT)" for an Officer-Involved Incident as defined in this protocol. Their function in this regard is to co-manage the incident and to ensure the following:

1. The provisions of this protocol are followed

2. The CMT members are co-equal in their authority

3. The CMT works together to manage the criminal investigation to ensure the best investigative outcome

In the event the Primary Agency or the District Attorney's Office defers their responsibilities to another law enforcement agency (e.g. the 'Employing Agency'), the outside agency command staff member shall also replace the respective member on the Case Management Team.

Generally, the officials assigned to the Case Management Team should hold the approximate rank of lieutenant, or if holding lesser rank, should be given lieutenant-level authority by their agencies for their participation on this Team.

These individuals should be experienced and knowledgeable in Officer-Involved Incident investigations; should have supervisory authority over investigators from their respective agencies; and should have sufficient knowledge and authority to make a variety of decisions pertaining Officer-Involved Incidents.

Officials assigned to the Case Management Team work together as a team and the members are co-equal. While their primary function is to work with each other to manage and coordinate the Criminal Investigation, occasionally one or more members may need to perform some Criminal Investigative functions.

Should a conflict occur amongst members of the Case Management Team that cannot be resolved and such conflict would have a material and adverse effect on the investigative outcome of the Officer-Involved Incident, the primary agency's Chief or Sheriff, or designee, shall be consulted along with the District Attorney or his/her designee.

F. NOTIFICATIONS

Upon identifying an occurrence as being an "Officer-Involved Incident", the Employing Agency shall make the following notifications as promptly as possible:

1. Intra-department, as required by that agency's procedures;

2. Primary Agency (If different from the Employing Agency); and

3. District Attorney's Chief Investigator or designee (via County Communications).

4. On-Call Homicide Deputy District Attorney (via County Communications).

The Primary Agency shall make the following confirmations and notifications as promptly as possible:

1. Confirm that the on-call Homicide Deputy District Attorney and the District Attorney's on-call Chief Investigator, or designee, has been notified; and

2. Upon confirmation of a fatality, notification of the Coroner's Office.

G. SCENE PROCEDURES AND SECURITY PENDING ARRIVAL OF INVESTIGATORS

Emergency life saving measures have the first priority. If a person is transported to a medical facility with injuries, an officer should accompany that person in the same vehicle for the following purposes:

1. Preserve, safeguard and maintain the chain of evidence;

2. Obtain witness statements and document any spontaneous statements made to medical personnel;

3. Maintain custody if the person is under arrest, ensuring the preservation of his/her clothing and possessions; and

4. Provide information to and from the medical personnel. (If airlifted, immediate response to the hospital is required).

Pending arrival of the Incident Investigative Team and the Case Management Team, the scene(s) should be secured immediately, with a perimeter established for each scene a sufficient distance away to safeguard evidence.

1. Access should be limited to only those who must enter for official reasons;

2. When not needed for life saving efforts, entry by fire and ambulance crewmembers should also be limited to those whose presence is necessary; and

3. A log, started as soon as possible, should be kept of the identities of all persons entering the scene, the time of their entry and exit, and the reason for the entry of each.

Whenever possible, all witnesses and Involved Officers should be separated as soon as practical after the incident to ensure that statements and recollections of events are independent.

1. In cases of a death in a jail or detention facility, all persons, including prisoners, who may have witnessed events leading up to the death shall be identified and separated pending interviews by the Incident Investigative Team.

The Primary Agency has the responsibility for securing and processing the crime scene, including the Involved Officers, however shall do so under the direction of the Incident Investigative Team.

1. Evidence collection, witness coordination and general crime scene processing will be under the authority and follow the procedures of the Primary Agency as authorized by the Incident Investigative Team. The Primary Agency may defer its investigative authority on the Incident Investigative Team to the Employing Agency.

2. Physical evidence at the scene which is in danger of being contaminated, destroyed or removed must be promptly and effectively observed, recorded and then protected for subsequent collection.

H. INCIDENT INVESTIGATION VS. ADMINISTRATIVE/CIVIL INVESTIGATION

This protocol is intended as an interagency guideline for Incident Investigations (as defined on page 1) of Officer-Involved Incidents. This protocol is not intended to address issues concerning the administrative or civil investigation of the incident.

1. The administrative or civil investigation is the function of the agency employing the Involved Officer and will include administrative and non-criminal matters that are not within the scope of the Incident Investigation.

2. At the onset of the investigation of an incident, there must be an immediate and clearly defined distinction between the Incident Investigation and the administrative and civil Investigation.

3. The agency employing the Involved Officer, whether it is the Primary Agency or not, has an interest in the outcome of the Incident Investigation and may utilize the results of that investigation for its own non-criminal purposes (e.g., determination of possible violations of departmental regulations, establishing suitability for duty, training for use in civil suits or administrative claims brought by or against the agency).

I. INTERVIEWS WITH PEACE OFFICER AND CUSTODIAL OFFICER EMPLOYEES

Interviews with officer and custodial officer employees should be conducted by the investigator(s) from the Incident Investigative Team. The Incident Investigative Team will determine who will participate in the interview of any Involved Officer(s) or witnesses and where the interview(s) will take place.

1. Prior to the interview of an Involved Officer, investigators from the Incident Investigative Team should review all available audio/video recordings from police vehicle in-car cameras, personal body-worn cameras by responding officers and/or an Involved Officer, independent third parties, and independent sources.

2. Interviews of an Involved Officer and witnesses to an Incident should be recorded.

3. Whenever practical, interviews should be video recorded.

4. The assigned Deputy District Attorney and Employing Agency representative, if not physically present during the interview, will be permitted to monitor the interview or have immediate access to any recording made of the interview.

The initial interview of an Involved Officer should occur before the officer has reviewed any audio/video recordings of the incident. An Involved Officer will have an opportunity to review recordings after the initial statement has been taken. Investigators should be mindful that audio/video recordings have limitations and may depict events differently than the events recalled by an Involved Officer. If the investigator shows any audio/video recordings to an Involved Officer after the initial interview, the investigator has the discretion to admonish an Involved Officer about the limitations of audio/visual recordings.

The following is an example of an admonishment that would be appropriate in a case involving video evidence:

> In this case, there is video evidence that you will have an opportunity to view after you have given your initial statement. Video evidence has limitations and may depict the events differently than you recall, and may not depict all of the events as seen or heard by you. Video has a limited field of view and may not capture events normally seen by the human eye. The "frame rate" of video may limit the camera's ability to capture movements normally seen by the human eye. Lighting as seen on the video may be different than what is seen by the human eye. Videos are a two-dimensional medium and may not capture depth, distance or positional orientation as well as the human eye. Remember, the video evidence is intended to assist your memory and ensure that your initial statement explains your state of mind at the time of the incident.

Investigators may ask an Involved Officer to view the incident scene during a "walk-through." The investigator will determine the timing of the "walk-through," however, it should not occur prior to the initial statement of an Involved Officer. Only one Involved Officer at a time will be permitted to do a "walk-through" of the scene.

If, prior to or during the interview, it is deemed that an Involved Officer may be charged with a criminal offense, and the interview becomes custodial, the Involved Officer shall be immediately informed of his/her constitutional rights pursuant to the *Miranda* decision.

To ensure the voluntariness of an interview with an Involved Officer, that has not reached the level of a custodial interrogation, the investigator may wish to advise him/her as follows:

1. The Involved Officer is not in custody and is free to leave the interview.

2. The Involved Officer is not obligated to answer incriminating questions, and answers that are given may be used against him/her in court.

The Involved Officer may consult with a representative prior to being questioned by the Incident Investigators. Some or all of these considerations may be applicable:

1. The consultation should not be allowed to materially impede the investigation.

2. The representative should be permitted to consult with only one Involved Officer at a time.

3. To ensure the integrity of each interview, it is important that statements about the incident not be relayed through such representatives; rather, the Involved Officer and other officer witnesses should answer the questions directly even if they need to consult with their representative prior to answering.

J. INTOXICANT TESTING

If the Incident Investigators determine that an Involved Officer's state of sobriety is relevant to the Incident Investigation, they shall proceed as they would with any civilian person in a similar situation. Their options are to:

1. Obtain a blood sample for alcohol and/or drug testing, and/or a urine sample for alcohol and/or drug testing, with the Involved Officer's valid consent; or

2. Obtain a blood sample for alcohol and/or drug testing and/or a urine sample for alcohol and/or drug testing, incidental to the arrest of that person for a crime; or

3. Obtain a blood sample for alcohol and/or drug testing and/or a urine sample for alcohol and/or drug testing, pursuant to a search warrant.

In the event appropriate physiological samples are not obtained from an Involved Officer as part of the Incident Investigation, the Employing Agency (whether or not it is also the Primary Agency) may wish to obtain such sample(s) for administrative employment-related purposes. The options are to:

1. Obtain the sample(s) with the employee officer's valid consent; or

2. Obtain the sample(s) by ordering the employee officer to provide such sample(s) based upon the employer-employee relationship.

Departments may establish administrative policies regarding intoxicant testing of any employee involved in an incident.

1. If the Employing Agency asks for a physiological fluid sample for administrative purposes after the Incident Investigators have either been unable to obtain a sample or have decided against obtaining one, the Employing Agency will be accommodated as much as possible. The Employing Agency's efforts to obtain a sample should not interfere with the Incident Investigation.

An employee officer may volunteer to provide a physiological fluid sample for intoxicant testing even if the Incident Investigators and Employing Agency have not ordered one. Similarly, a person from whom the Incident Investigators or the Employing Agency has taken a sample may wish to have a second sample taken for independent testing. Such requests should normally be accommodated, with the understanding that the employee officer will bear any expense for sample collection and testing.

K. AUTOPSY

In the interest of independent review, the Coroner's Office does not allow law enforcement investigators or crime-scene investigators to be present in the autopsy suite during Officer-Involved Incident post-mortem examinations. The Medical Examiner will brief the incident investigator(s) after the post-mortem examination occurs.

1. The Medical Examiner has the responsibility for the collection and documentation of physical evidence discovered during the autopsy.

2. The Incident Investigative Team should coordinate with the Medical Examiner any external examination and/or forensic testing of physical evidence discovered during the autopsy to ensure the chain-of-custody is preserved.

3. The Incident Investigative Team should coordinate with the Medical Examiner to ensure any evidence maintained by the Coroner's Office is properly handled, secured and packaged.

The Incident Investigative Team should provide the Medical Examiner a full and complete briefing prior to the post-mortem examination. The briefing should include all relevant information available at that time which may tend to aid in determining cause, manner and means of the decedent's death. An Incident Investigator(s) and a member of the evidence collection team should be present at the briefing.

L. NEWS MEDIA RELATIONS

A representative of the Incident Investigative Team is in the best position to comment about the facts of the case and the progress of the investigation. When multiple agencies are involved or have knowledge of an Incident, the following information release guidelines should be followed:

1. The Primary Agency will assign a particular individual to be the sole contact with the news media to manage the release of information and to minimize interruptions to the Incident Investigative Team. If this is not feasible, a particular job assignment (e.g., Watch Commander) should be designated.

2. Any release of information to the news media should be reviewed by the Case Management Team prior to such release.

3. If the Incident Investigative Team or the Case Management Team determine that the release of a specific piece of information would materially jeopardize the investigation, they shall notify those agencies possessing that knowledge of the hazards of releasing it.

4. Agencies and individuals that are not well informed and intimately involved with the investigation's results and progress should not make statements to the press. As in all other instances, care must be taken to insure that intentionally misleading, erroneous or false statements are not made.

5. The interest of the public's right to know what occurred must be balanced with the requirements of the investigation and with the right of the accused to receive a fair trial.

Other agencies may also be contacted by the news media for information about the Incident, including:

The Employing Agency

1. If the Employing Agency is not also the Primary Agency, it should coordinate any information release with the Case Management Team and limit its comments to the following areas:

    a. The employer-employee relationship, however, the names of the Involved Officer(s) will not be released until 24 hours after the incident to allow time for appropriate notifications to be made.

    b. Information which has been cleared for release by the Case Management Team.

The District Attorney

1. The District Attorney will not disseminate any of the following information while the case is under investigation or review:

    a. That an uncharged individual is "under investigation."

    b. An Involved Officer's statement, confession or refusal to give a statement.

c. The subject of any gag order.

d. The prior criminal history of any Involved party, unless it is part of the criminal pleading or crime under investigation.

e. The result of any examinations.

f. The pendency of a search warrant.

g. Any statement that has a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

2. In cases where a criminal complaint is filed, the judicial record, such as a probable cause declaration, or preliminary hearing is open to the public. Additionally, the District Attorney may disseminate the following:

a. Name of defendant.

b. Area of residence.

c. Occupation.

d. Physical description.

e. Age.

f. Sex.

g. Time, date and location of arrest.

h. Factual circumstances of the crime.

i. Amount of bail.

j. Location held.

k. All charges including warrants.

l. Parole or probation holds.

m. Schedule and explanation of the judicial process.

n. Penalty range.

The Coroner's Office

Information obtained from the Incident Investigators or from the Involved Agencies will not be released by the Coroner's Office without prior clearance from those agencies. Release of information will generally be limited to the following:

1. Autopsy findings, including the condition of the deceased, the cause of death, and toxicology test results, after the Involved agencies have received this information and, if applicable, only after receiving clearance to do so from the District Attorney's Office. The Coroner's Office will not release any information to the media where there is a pending criminal prosecution.

2. The general role of the Coroner's Office in the investigation of any death.

M. ACCESS TO REPORTS AND EVIDENCE

Material created or collected by the Primary Agency and the Incident Investigative Team investigators, as well as by any other assisting agencies, will be made available in a timely manner to those agencies which have a "need to know" and which are legally authorized to receive the information. The material may include:

1. Reports written and collected.

2. Physical evidence obtained.

3. Photographs and diagrams.

4. Recordings.

The agencies with an interest in the Officer-Involved Incident Investigation may include:

1. Investigating agencies.

2. The employer of any Involved Officer.

3. The District Attorney.

4. The Crime Laboratory.

5. The Coroner's Office.

N. FINAL ACTION

The Officer-Involved Incident Investigation should be completed and all reports submitted to the Office of the District Attorney within 90 days of the Incident, absent unusual circumstances.

At the conclusion of the investigation, the Office of the District Attorney will review and analyze all the evidence to determine whether the officer acted lawfully.

The crime charging standards are the same for civilians and peace officers. The District Attorney's policy regarding crime charging is as follows:

> "The prosecutor should charge only if the following four basic requirements are satisfied:
>
> 1) The prosecutor, based on a complete investigation and a thorough consideration of all pertinent facts readily available, is satisfied that the evidence proves that the accused is guilty of the crime to be charged;
>
> 2) There is legally sufficient, admissible evidence of a corpus delicti;
>
> 3) There is legally sufficient, admissible evidence of the accused's identity as the perpetrator of the crime charged; and
>
> 4) The prosecutor has considered the probability of conviction by an objective fact finder and has determined that the admissible evidence is of such convincing force that it would warrant conviction of the crime charged by a reasonable and objective fact finder after hearing all the evidence available to the prosecutor at the time of charging and after considering the most plausible and reasonably foreseeable defenses."

If no charges are filed, the District Attorney will issue a closing report summarizing the results of the investigation and analyzing the evidence. This report will address the question of whether or not there is proof beyond a reasonable doubt that an officer, deputy, or any other person committed a crime. It is not the purpose of the District Attorney's investigation or report to determine if any officer or deputy violated police policy or procedure, or committed any act that would be subject to civil sanctions. The District Attorney's Office will make every effort to issue a closing report containing its findings and conclusion within 90 days of the receipt of the completed investigative package. This report shall be sent to the Involved police agencies, the decedent's family and then released to the public.

O. TRAINING

All affected agencies are strongly encouraged to provide training to their members regarding these guidelines, including:

1. The responsibilities of the Incident Investigators and first responders to the scene of an Officer-Involved Incident.

2. The investigative process of an Officer-Involved Incident, including the specific process relative to the actual officer(s) involved.

3. The psychological effect which may be experienced by the Involved Officer and/or officers who were involved in the incident.

The employing agencies are encouraged to provide some form of critical incident stress debriefing to their affected employees.

Santa Clara County Police Chiefs' Association
Officer-Involved Incident Guidelines
Adopted December 8, 2016

Ceto Ortiz, Captain
California Highway Patrol

David Swing, Chief
Morgan Hill Police Department

David Carmichael, Chief
Campbell Police Department

Max Bosel, Chief
Mountain View Police Department

Denise Turner, Chief
Gilroy Police Department

Dennis Burns, Chief
Palo Alto Police Department

Tuck Younis, Chief
Los Altos Police Department

Edgardo Garcia, Chief
San Jose Police Department

Matt Frisby, Chief
Los Gatos/Monte Sereno Police Department

Peter Decena, Chief
San Jose State University Police Department

Steve Pangelinan, Chief
Milpitas Police Department

Jeffrey F. Rosen, District Attorney
Santa Clara County District Attorney's Office

Santa Clara County Police Chiefs' Association
Officer-Involved Incident Guidelines
Adopted December 8, 2016

Laurie Smith, Sheriff

Santa Clara County Sheriff's Office

Carl Neusel, Undersheriff

Santa Clara County Department of Corrections

Michael Sellers, Chief

Santa Clara Police Department

Frank Grgurina, Chief

Sunnyvale Department of Public Safety

PPM 517 Request for an Authorized Certified Copy of Record.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

County of Santa Clara

Office of the District Attorney

County Government Center, West Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-7400
www.santaclara-da.org

Jeffrey F. Rosen
District Attorney

REQUEST FOR AN AUTHORIZED CERTIFIED COPY OF RECORD

DATE: _____

TO: Santa Clara County Clerk-Recorder, Business Division
70 W. Hedding Street, E. Wing, 1st Floor

FROM: _____, Office of the District Attorney

O **Birth Certificate** O **Death Certificate** O Check if adoption/legal name change has occurred

Name: _____ O Male O Female
First **Middle** **Last**

Date of Event: _____ City of Event: _____

Father's Name: _____ Mother's Maiden Name: _____

O **Marriage Certificate**

Name of Groom: _____
First **Middle** **Last**

Bride's Maiden Name: _____

Date of Marriage: _____ City Where License Issued: _____
(Month, Day, Year)

SWORN STATEMENT

I, _____, swear/affirm/certify under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. I am an employee of the District Attorney who is obtaining this record in the course of official business.

Sworn this _____ day of _____, 20__, at San Jose, California

_____
(Signature)

6-005

PPM 607 DA ALPR Policy.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Automated License Plate Recognition (ALPR) “End-User” Policy

Authorized Purpose for Accessing and Using ALPR Information

The Santa Clara County District Attorney’s Office (SCCDA) is an automated license plate recognition (ALPR) “end-user.” As an “end-user,” authorized personnel employed by the SCCDA access license plate information from systems controlled by private and outside law enforcement ALPR operator agencies to investigate and prosecute criminal activity in Santa Clara County. To support the mission of the SCCDA, authorized SCCDA personnel with a need and right to know will access ALPR data for the following purposes:

- Locate stolen, wanted, and subject of investigation vehicles;
- Locate and apprehend individuals subject to arrest warrants or otherwise lawfully sought by law enforcement;
- Locate victims and witnesses of crime;
- Locate missing or abducted children and elderly individuals, including responding to Amber or Silver Alerts;
- Support local, state, federal and tribal public safety departments in the identification of vehicles associated with targets of criminal investigations, including investigations of serial crimes;
- Protect participants at special events; and
- Protect critical infrastructure sites.

Authorized Users of ALPR Information

The following SCCDA personnel involved in the investigation and prosecution of crime are authorized to access and use ALPR information:

- District Attorney
- Chief Assistant District Attorney
- Assistant District Attorneys
- Deputy District Attorneys
- District Attorney Investigators
- District Attorney Analysts
- District Attorney Paralegals
- Legal Process Officers

Restrictions on use of ALPR Systems

Automated license plate reader data reviewed by an authorized “end-user” may not be used for the sole purpose of monitoring individual activities protected by the First Amendment to the United States Constitution.

SCCDA ALPR “end-users” may not contact occupants of stolen, wanted, or subject-of-investigation vehicles unless the “end-users” are law enforcement officers. SCCDA ALPR law enforcement “end-users” shall follow the SCCDA rules and regulations regarding equipment, protection, self-identification, and use of force when stopping vehicles or making contact.

SCCDA ALPR “end-users” must recognize that the data collected from ALPR devices, and any content-referenced hotlists, consist of data that may or may not be accurate, despite ongoing efforts to maximize the currency and accuracy of such data. To the greatest extent possible, before SCCDA law enforcement personnel contact a subject they will verify and confirm vehicle and subject information using separate law enforcement information sources. SCCDA law enforcement personnel relying on ALPR data must, to the fullest extent possible, visually confirm that the plate characters generated by the ALPR readers correspond with the digital images of the license plate in question.

All SCCDA personnel accessing ALPR data as “end users” are required to acknowledge that they have previously read and understood the SCCDA policy.

In no case shall an ALPR system or data derived from such a system be used for any purpose other than legitimate law enforcement or public safety purposes.

Training

SCCDA provides staff training on the secure handling of confidential and personal information, including ALPR data. The training addresses appropriate handling and transmission procedures, as well as consequences of a security breach.

Only SCCDA staff trained in the use of the ALPR data systems, including its privacy and civil liberties protections, shall be allowed access to ALPR data. Training shall consist of:

- Legal authorities, developments, and issues involving the use of ALPR data and technology;
- Current SCCDA policy regarding appropriate use of ALPR systems;
- Evolution of ALPR and related technologies, including new capabilities and associated risks;
- Technical, physical, administrative, and procedural measures to protect the security of ALPR data against unauthorized access or use;
- Recognition of information technology security incidents, procedures for information technology security incident response, and information security reporting requirements; and
- Practical exercises in the use of ALPR systems.

Training shall be updated as technological, legal, and other changes that affect the use of ALPR systems occur.

ALPR Information Security

Physical and information systems access is limited to SCCDA staff in good standing, who have successfully completed CJIS-compliant background investigations and possess an active physical and/or information systems security clearance.

The County of Santa Clara and SCCDA utilize physical access controls, application permission controls, and other technological, administrative, procedural, operational, and personnel security measures to protect ALPR information from unauthorized access, destruction, use, modification or disclosure.

Audit

Access to, and use of, ALPR data is logged for audit purposes. Audit reports will be structured in a format that is understandable and useful and will contain, at a minimum:

- The name of the authorized user;
- The name of the agency employing the user;
- The date and time of access;
- The activities executed, including any license plates searched for;
- The supplied authorized law enforcement or public safety justification for access; and
- A case number associated with the investigation effort generating the ALPR data query.

At least once during each calendar year, SCCDA will audit a sampling of the ALPR system utilization from the prior 12-month period to verify proper use in accordance with the above-authorized uses. Any discovered intentional misconduct will lead to further investigation, termination of system access, and notification of the user's immediate supervisor for appropriate recourse. In addition, the auditing data will be used to identify systemic issues, inadvertent misuse, and requirements policy changes, training enhancements, or additional oversight mechanisms. The ALPR audits shall be conducted by a SCCDA Project Manager other than the person assigned to manage the SCCDA ALPR function. Audit results shall then be reported to the District Attorney.

ALPR Information Sharing Restrictions

SCCDA only shares ALPR information with authorized law enforcement partners for public safety purposes. Additionally, pursuant to Penal Code section 1054 et seq. and *Brady v. Maryland*, the SCCDA provides ALPR information as criminal discovery to the appropriate defense or appellate attorney of record. SCCDA does not share ALPR information with commercial or other private entities or individuals.

Official Custodian

The Assistant District Attorney of the SCCDA Narcotics Unit is the custodian for implementing the SCCDA ALPR policy.

Accuracy of ALPR Information

In the event that an ALPR operator informs SCCDA of an error associated with ALPR information accessed by SCCDA, SCCDA will correct all associated files. Should SCCDA become aware of an ALPR error, it will correct all associated files and contact the operator that provided the information regarding the error.

ALPR Data Retention

In accordance with the SCCDA Record Retention and Destruction Policy, ALPR data will be stored according to the following schedule:

Case Type	Official Retention Period
Homicide Case Files	Permanent
All Non-Homicide Case Files, Unless Otherwise Stated in this Schedule	Seventy-five years. Case files will be scanned and electronically archived and retained for 75 years. Originals will be retained for a period of at least 90 days to allow scanning for authentication by the department, after which they will be destroyed. Backed up by DA IT provider.
Juvenile Ward Files	When a minor turns 18 and petitions the court for records to be sealed, the record will be destroyed at age 20 or as otherwise ordered by a court of competent jurisdiction. Otherwise as covered by this schedule.
Developmentally Disabled (DD) Case Files	Life of the client.
Plea of Insanity (PC 1026) Case Files	Life of the client.
Juvenile Case Files	Two years after final disposition or until minor attains age of 21, whichever is later. Caveat 1): If cased is appealed, the file must be retained until the final appellate decision is received. Caveat 2): Cases that may be charged as "strikes" should be retained for 75 years.
Certificates of Rehabilitation Case Files	Two years.
Advise and Assist Case Files	Two years.
Expungement Case Files	Two years.
Post-Conviction Proceedings and Special Project Files	Two years.

PPM 216 SCC Injury Report Form.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Custody Policy 14 17 Inmate Rights LGBTQI Inmates.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

PPM 216 SCC Injury Report Form Form 5020.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

PPM 517 Fee Transfer Authorization Form.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

County of Santa Clara

Office of the District Attorney

County Government Center, West Wing
70 West Hedding Street
San Jose, California 95110
(408) 299-7400

Jeffrey F. Rosen
District Attorney

FEE TRANSFER AUTHORIZATION

DATE: _____

TO: Santa Clara County Clerk-Recorder, Business Division
70 W. Hedding Street, E. Wing, 1st Floor

FROM: _____, Office of the District Attorney

CASE NUMBER: _____

_____

_____

ITEM(S): O Birth Certificate(s) _____ @ $21.00 O Death Certificate(s) _____ @ $14.00

O Marriage Certificate(s) _____ @ $14.00 (gov't) O Other _____

TOTAL COST: $_____

AUTHORIZED SIGNATURE : _____

G/L**: 5255100** FUND: **0001**

	Cost center	WBS		Cost Center
O Worker's Comp Fraud	**3813**	**202-G202WCGG-20-06**	O Investigations	**3834**
O Auto Insurance Fraud	**3818**	**202-G202AUIN-20-06**	O Public Assistance Fraud	**3835**
O Urban Insurance Fraud	**3819**	**202-G202URBN-20-06**	O Attorneys	**3836**
O Health Insurance Fraud	**3816**	**202-G202HEAH-20-06**	O Others	

AUTHORIZED SIGNATURE: _____

For Use by Clerk-Recorders Office Only *Transaction Number:* ___ ___ ___ ___ ___ ___

Distribution: Original to Clerk-Recorder *Copy with transaction number to DA Business Services*

PPM 216 SCC Injury Report Form 5020.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

PRINT FORM

State of California
EMPLOYER'S REPORT OF OCCUPATIONAL INJURY OR ILLNESS

COUNTY OF SANTA CLARA WORKER'S COMPENSATION DIVISION

Is this a serious injury, illness or death? YES ☐ NO ☐ If Yes, select from the drop-down list and contact OSEC immediately at (408) 441-4280.

OSHA CASE NO.

FATALITY ☐

Any person who makes or causes to be made any knowingly false or fraudulent material statement or material representation for the purpose of obtaining or denying workers compensation benefits or payments is guilty of a felony.

California law requires employers to report within **five days** of knowledge every occupational injury or illness which results in lost time beyond the date of the incident **OR** requires medical treatment beyond first aid. If an employee subsequently dies as a result of a previously reported injury or illness, the employer must file within **five days** of knowledge an amended report indicating death. In addition, every serious injury, illness, or death must be **reported immediately** by telephone or telegraph to the nearest office of the California Division of Occupational Safety and Health.

EMPLOYER DATA

1. FIRM NAME: **County of Santa Clara** — 1a. Fax Number: **(408) 432-7572**
2. MAILING ADDRESS: (Number, Street, City, Zip): **2310 North First Street, Suite 205, San Jose, CA 95131** — 2a. Phone Number: **(408) 441-4300**
3. LOCATION if different from Mailing Address (Number, Street, City and Zip) — 3a. IC Number — 3b. Budget Unit — BU SEARCH
4. NATURE OF BUSINESS; e.g.. Painting contractor, wholesale grocer, sawmill, hotel, etc.: **County Government** — 5. State unemployment insurance acct. no.: **944-0164-3**
6. TYPE OF EMPLOYER: ☐ Private ☐ State ☑ County ☐ City ☐ School District ☐ Other Gov't, Specify: _____

INJURY / ILLNESS FACTS

7. DATE OF INJURY / ONSET OF ILLNESS (mm/dd/yy)
8. TIME INJURY/ILLNESS OCCURRED _____ AM _____ PM
9. TIME EMPLOYEE BEGAN WORK _____ AM _____ PM
10. IF EMPLOYEE DIED, DATE OF DEATH (mm/dd/yy)
11. UNABLE TO WORK FOR AT LEAST ONE FULL DAY AFTER DATE OF INJURY? ☐ Yes ☐ No
12. DATE LAST WORKED (mm/dd/yy)
13. DATE RETURNED TO WORK (mm/dd/yy)
14. IF STILL OFF WORK, CHECK THIS BOX: ☐
15. PAID FULL DAY'S WAGES FOR DATE OF INJURY OR LAST DAY WORKED? ☐ Yes ☐ No
16. SALARY BEING CONTINUED? ☐ Yes ☐ No
17. DATE OF EMPLOYER'S KNOWLEDGE /NOTICE OF INJURY/ILLNESS (mm/dd/yy)
18. DATE EMPLOYEE WAS PROVIDED CLAIM FORM (mm/dd/yy)
19. SPECIFIC INJURY/ILLNESS AND PART OF BODY AFFECTED, MEDICAL DIAGNOSIS if available, e.g.. Second degree burns on right arm, tendonitis on left elbow, lead poisoning
20. LOCATION WHERE EVENT OR EXPOSURE OCCURRED (Number, Street, City, Zip)
20a. COUNTY
21. ON EMPLOYER'S PREMISES? ☐ Yes ☐ No
22. DEPARTMENT WHERE EVENT OR EXPOSURE OCCURRED, e.g.. Shipping department, machine shop.
23. Other Workers Injured/Ill in this event? ☐ Yes ☐ No
24. EQUIPMENT, MATERIALS AND CHEMICALS THE EMPLOYEE WAS USING WHEN EVENT OR EXPOSURE OCCURRED, e.g.. Acetylene, welding torch, farm tractor, scaffold:
25. SPECIFIC ACTIVITY THE EMPLOYEE WAS PERFORMING WHEN EVENT OR EXPOSURE OCCURRED, e.g.. Welding seams of metal forms, loading boxes onto truck.
26. HOW INJURY/ILLNESS OCCURRED. DESCRIBE SEQUENCE OF EVENTS. SPECIFY OBJECT OR EXPOSURE WHICH DIRECTLY PRODUCED THE INJURY/ILLNESS, e.g.. Worker stepped back to inspect work and slipped on scrap material. As he fell, he brushed against fresh weld, and burned right hand. USE SEPARATE SHEET IF NECESSARY.
27. NAME AND ADDRESS OF PHYSICIAN (Number, Street, City, Zip) — 27a. Phone Number
28. HOSPITALIZED AS AN INPATIENT OVERNIGHT? If yes then, NAME AND ADDRESS OF HOSPITAL (Number, Street, City, Zip). ☐ Yes ☐ No — 28a. Phone Number
29. Employee treated in Emergency Room? ☐ Yes ☐ No

ATTENTION: This form contains information relating to employee health and must be used in a manner that protects the confidentiality of employees to the extent possible while the information is being used for occupational safety and health purposes.
See CCR Title 8 14300.29 (b)(6)-(10) & 14300.35(b)(2)(E)2.
Note: Shaded boxes indicate confidential employee information as listed in CCR Title 8 14300.35(b)(2)(E)2.*

EMPLOYEE DATA

30. EMPLOYEE NAME
31. SOCIAL SECURITY NUMBER
32. DATE OF BIRTH (mm/dd/yy)
33. HOME ADDRESS (Number, Street, City, Zip)
33a. PHONE NUMBER
34. SEX: ☐ Male ☐ Female
35. OCCUPATION (Regular job title, NO initials, abbreviations or numbers)
36. DATE OF HIRE (mm/dd/yy)
37. EMPLOYEE USUALLY WORKS _____ hours per day, _____ days per week, _____ total weekly hours
37a. EMPLOYMENT STATUS ☐ regular, full-time ☐ part-time ☐ temporary ☐ seasonal
37b. UNDER WHAT CLASS CODE OF YOUR POLICY WERE WAGES ASSIGNED?
38. GROSS WAGES/SALARY $ _____ per _____
39. OTHER PAYMENTS NOT REPORTED AS WAGES/SALARY (e.g. tips, meals, overtime, bonuses, etc.)? ☐ Yes ☐ No

CAUSES AND CORRECTIVE ACTION

WITNESS NAME — DAYTIME TELEPHONE — WHY, IN YOUR OPINION DID THIS ACCIDENT/EXPOSURE OCCUR? (LIST CAUSES)

WHAT HAVE YOU DONE TO PREVENT A SIMILAR INJURY/ILLNESS? — HAS PREVENTATIVE ACTION BEEN INITIATED? ☐ Yes ☐ No — IF YES, HAS PREVENTATIVE ACTION BEEN COMPLETED? ☐ Yes ☐ No

Please do not use this column

CASE NUMBER
OWNERSHIP
INDUSTRY
OCCUPATION
SEX
AGE
DAILY HOURS
DAYS PER WEEK
WEEKLY HOURS
WEEKLY WAGE
COUNTY
NATURE OF INJURY
PART OF BODY
SOURCE
EVENT
SECONDARY SOURCE
EXTENT OF INJURY

NAME, PHONE NUMBER AND DATE BELOW:

COMPLETED BY: PHONE NUMBER: DATE:

*Confidential information may be disclosed only to the employee, former employee, or their personal representative (CCR Title 8 14300.35), to others for the purpose of processing a workers' compensation or other insurance claim: and under certain circumstances to a public health or law enforcement agency or to a consultant hired by the employer (CCR Title 8 14300.30). CCR Title 8 14300.40 requires provision upon request to certain state and federal workplace safety agencies.

GO TO PAGE 2 FOR SUPERVISOR'S ADDITIONAL COMMENTS

Legend:
Space Bar = Check Mark

A. Supervisor's Additional Notes/Comments

Write additional information/explanation pertinent to this claimant's injury:

Name of Employee Supervisor: _____

Date: _____

RESET FORM

Instructions for Completing Form 370

SUPERVISOR'S FIRST REPORT OF OCCUPATIONAL INJURY/ILLNESS

PLEASE COMPLETE ALL ITEMS ON THIS FORM - If unknown, state unknown.

PRINT OR TYPE ALL INFORMATION

Questions Not Listed Below are Self Explanatory

3a. **IC NUMBER -** Four digit Index Code assigned to the department/division. **Example**: 5 6 7 0

3b. **BUDGET NUMBER - Example:** Enviromental Resources Agency 0 2 6 0

7. **DATE OF INJURY/ONSET OF ILLNESS(mm/dd/yy) -** Indicate date injury occurred **Example:** 08/22/03

8. **TIME INJURY/ILLNESS OCCURRED-** Indicate time of day injury occurred. **Example:** 3:30 p.m.

9. **TIME EMPLOYEE BEGAN WORK -** Indicate time shift began. **Example:** 8:00 a.m.

10. **IF EMPLOYEE DIED, DATE OF DEATH** (mm/dd/yy) - **Example:** 08/24/03

11. **UNABLE TO WORK FOR AT LEAST ONE FULL DAY AFTER INJURY? -** (Beyond Date Injured) - Indicate if the employee missed a full day's work which he/she was scheduled to work as a result of the injury. If yes, enter the date the employee worked.

12. **DATE LAST WORKED (mm/dd/yy) -** Indicate employees last day at work. **Example:** 08/23/03

13. **DATE RETURNED TO WORK (mm/dd/yy) -** Indicate date employee returned to work. **Example:** 08/23/03

14. **IF STILL OFF WORK, CHECK THIS BOX:** Check this box only if the employee remains off work.

15. **PAID FULL DAY'S WAGES FOR DATE OF INJURY OR LAST DAY WORKED?** Indicate yes or no in appropriate box.

16. **SALARY BEING CONTINUED?** Indicate if salary is continued for this employee.

17. **DATE OF EMPLOYER'S KNOWLEDGE/NOTICE OF INJURY/ILLNESS** (mm/dd/yy) - Indicate the date when injury was reported to you or you first became aware of injury/illness.

18. **DATE THE EMPLOYEE WAS PROVIDED CLAIM FORM** (mm/dd/yy) - Indicate the date the employee was provided "Employee's Claim for Worker's Compensation Benefits" form

19. **SPECIFIC INJURY/ILLNESS AND PART OF BODY AFFECTED, MEDICAL DIAGNOSIS IF AVAILABLE. Example:** Second degree burns on right arm, tendonitis on left elbow, lead poisoning

20. **LOCATION WHERE EVENT OR EXPOSURE OCCURRED -** Give the number, street and city where applicable or describe the location where the accident occurred. **Example:** 1412 Terrace St., San Jose - Abandoned Residence

21. **EMPLOYER's PREMISES? -** Indicate whether or not the accident or exposure occurred on County premises. **Example:** x No (Premises defined as County building, parking lot, etc. Vehicle is not a premise.)

22. **DEPARTMENT WHERE EVENT OR EXPOSURE OCCURRED** - Full name of division/section of department. **Example:** Animal Control

23. **OTHER WORKERS INJURED/ILL IN THIS EVENT?** Indicate if other employees were also injured.

24. **EQUIPMENT, MATERIALS AND CHEMICALS THE EMPLOYE WAS USING WHEN EVENT OR EXPOSURE OCCURRED. - Example:** Repetively using keyboard or bending over loading paper into photocopier.

25. **SPECIFIC ACTIVITY THE EMPLOYEE WAS PERFORMING WHEN EVENT OR EXPOSURE OCCURRED.** Indicate what the employee was doing at the time of exposure or injury. **Example:** Employee was loading boxes onto a hand truck. Please give an estimated weight of the items lifted.

26. **HOW INJURY/ILLNESS OCCURED, DESCRIBE THE SEQUENCE OF EVENTS, SPECIFY OBJECT OR EXPOSURE WHICH PRODUCED THE INJURY/ILLNESS -** Explain sequence of events just prior to injury. **Example:** Worker stepped back to inspect work and slipped on scrap material. As he fell, he brushed against fresh weld, and burned right hand. Use separate sheet of paper in necessary.

27. **PHYSICIAN NAME/ADDRESS/TELEPHONE-** Name of the doctor or clinic administering treatment, the address and telephone number. Example: Dr. David Klein, 2400 Moorpark, San Jose, 95115, (408) 885-5920

28. **HOSPITALIZED AS AN INPATIENT OR OVERNIGHT? NAME AND ADDRESS OF HOSPITAL -** If employee is admitted to a hospital as an inpatient or overnight, give the hospital's name and address.

29. **EMPLOYEE TREATED IN EMERGENCY ROOM?** Indicate yes or no in appropriate box.

35. **OCCUPATION -** Full job title. Do not use initials or abbreviations. **Example:** Animal Control Officer

37b. **CLASS CODE:** Three-digit job class code. **Example:** V 5 7

37. **EMPLOYEE USUALLY WORKS-** Indicate the time the employee's shift started during which the injury occurred. **Example:** 3 p.m.

38. **GROSS WAGES/SALARY-** Employee's gross bi-weekly wages at the time of incident. Indicate how many hours per pay period the employee is scheduled to work. Example: $840.00 80 hrs.

CAUSES AND CORRECTIVE ACTION

WHAT HAVE YOU DONE TO PREVENT A SIMILAR INJURY/ILLNESS? Example: Revised inspection checklists to include ergonomic hazards; Initiated procedure for ergonomic training of new employees; Scheduled workplace evaluations of entire office.

WHY IN YOUR OPINION DID THIS ACCIDENT/EXPOSURE OCCUR? LIST CAUSE(S) - Consider unsafe practices, hazardous conditions, the lack of safe work procedures or training, etc. Example: For repetitive motion injuries: Work station not adjusted to fit new, untrained employee; Workplace inspections do not address ergonomic hazards.

PPM 507 Sequential Line Up Form.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

Santa Clara County District Attorney
Identification Form

Agency name/case number_____

Investigator presenting lineup_____

Others present during identification _____

Date/Time _____

Witness name/DOB _____

Witness description of individual

Order of photographs shown (PFN, DL Number, etc.)

_____ _____ _____ _____ _____ _____

Witness admonition.

The following should be read verbatim prior to displaying the sequential lineup:

1. You will be asked to view a set of individual photographs.
2. It is just as important to clear innocent persons from suspicion as it is to identify guilty parties.
3. Individuals may not appear exactly as they did on the date of the incident. For example, head and facial hair is subject to change.
4. The person who committed the crime may or may not be shown.
5. Regardless of whether identification is made, the police will continue to investigate the incident.
6. Do not discuss this experience with other witnesses. We want a fair and impartial evaluation by each witness.
7. Photos/persons will be viewed one at a time.
8. Photos/persons will be presented in random order.
9. You may take as much time as needed in deciding about each person before moving on to the next one.
10. You should identify the person who committed the crime, if present.
11. All persons will be presented, even if identification is made.
12. If you wish to view the photos/persons again, you may do so, but you will be shown all the photos again, and not any particular one.
13. The investigator(s) cannot validate or invalidate your choice (859.7 PC).
14. If a selection is made, the investigators will ask your confidence level of your selection. This confidence level need not be numerical, statistical, or quantifiable, only your personal belief in the identification.

_____

Witness signature/date

Investigators Note: Audio record the witness' statement regarding the lineup. Video record the line up if possible. Remember to document both positive identifications and non-identification results in writing, in the witness' own words.

Witness statement regarding identification:

What is the eyewitness' confidence level in the accuracy of the identification?

_____

Witness signature/date

Make sure your police report includes identification information and the source of all photos/persons used, the names of all persons present at the lineup and the date/time of the lineup.

Was a video recording made of the lineup procedure? Yes No
If no, provide reason:

PPM 517 Official Records Order Form.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

OFFICIAL RECORDS ORDER FORM

Note: WHEN ORDERING **5** OR MORE SEPARATE ITEMS, AN ADDITIONAL PROCESSING TIME OF UP TO **5** WORKING DAYS MAY BE REQUIRED. (PAYMENT IN ADVANCE IS REQUIRED)

PRINT YOUR NAME: _____

DOCUMENT NUMBER	**BOOK** (Document/Map)	**PAGE** (Document/Map)	**CERTIFIED** YES/NO (CIRCLE ONE)	**REQUEST NUMBER** **(Official Use Only)**
			Y / N	
			Y / N	
			Y / N	
			Y / N	
			Y / N	

DATE: _____ CLERK: _____

OFFICIAL RECORDS ORDER FORM

Note: WHEN ORDERING **5** OR MORE SEPARATE ITEMS, AN ADDITIONAL PROCESSING TIME OF UP TO **5** WORKING DAYS MAY BE REQUIRED. (PAYMENT IN ADVANCE IS REQUIRED)

PRINT YOUR NAME: _____

DOCUMENT NUMBER	**BOOK** (Document/Map)	**PAGE** (Document/Map)	**CERTIFIED** YES/NO (CIRCLE ONE)	**REQUEST NUMBER** **(Official Use Only)**
			Y / N	
			Y / N	
			Y / N	
			Y / N	
			Y / N	

DATE: _____ CLERK: _____

Hate Crime Checklist.pdf

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District Attorney's Office, Bureau of Inves igation

INDEX / TOPICS

. 28
. 28
. 149
. 149
. 160
. 229

A

ADMINISTRATIVE INVESTIGATION . . 157
ADMINISTRATIVE INVESTIGATIONS
OI. 157
OIS 157, 157

B

BODY ARMOR 328
BUREAU 27

C

CHIEF EXECUTIVE 11
CIVIL
Liability response. 159
CONDUCT
OIS. 151
CONTROL DEVICES 146
CUSTODIAL SEARCHES 178

D

DEBRIEFING
OIS. 159
Tactical. 159
DRIVING TACTICS 214

E

EXPOSURE(S) 231

F

FIREARMS
Retiree. 57

H

HAZARDOUS MATERIAL 230

I

INITIATE A PURSUIT 211
INTERIM DIRECTIVE 18

J

JURISDICTION
OIS. 151
JUVENILES
Citation. 203

L

LIMITED ENGLISH PROFICIENCY
Eyewitness identification. 246

M

MANUALS 229

N

NOTIFICATIONS 153

O

OATH 13
OFFICER SAFETY
LEOSA. 57
OFFICER-INVOLVED SHOOTING (OIS) . 150
ORGANIZATIONAL STRUCTURE 27

P

PURSUIT INTERVENTI 217
PURSUIT POLICY 210
PURSUIT UNITS 213

S

SEARCH & SEIZURE 176
STRIP SEARCHES 178

T

TERMINATE A PURSUIT 212
TRAINING POLICY 31

Copyright Lexipol, LLC 2020/08/17, All Rights Reserved.
Published with permission by Santa Clara County District
Attorney's Office, Bureau of Inves igation